

DEC 22 1978 - 7 52 AM

INTERSTATE COMMERCE COMMISSION

ITEL
CORPORATION

No. 8-356 A020

Date DEC 22 1978

Fee \$ 50.00

ICC Washington, D. C.

The Secretary
Interstate Commerce Commission
Washington, D. C. 20423

December 22, 1978

Iitel Corporation
Equipment Trust Agreement Dated as of November 1, 1978

Dear Sir:

Enclosed herewith for filing pursuant to 49 U.S.C. § 11303 is an Equipment Trust Agreement dated as of November 1, 1978, relating to the issuance of the Equipment Trust Certificates, 1978 Series 3, of Iitel Corporation. The parties to the enclosed Agreement are:

Iitel Corporation, Rail Division
Two Embarcadero Center
San Francisco, California 94111

and

Citibank, N.A., as Trustee
111 Wall Street
New York, N. Y. 10043

Please record one of the nine enclosed copies and stamp the other eight copies and the two copies of this letter enclosed herewith with the recordation data and return such copies to the delivering messenger who will wait. A check in

ONE EMBARCADERO CENTER
SAN FRANCISCO
CALIFORNIA 94111
(415) 955-0000

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I.C.C.

Counterpart - Larry's letterhead

the amount of \$50 is enclosed in payment of the applicable recording fee.

Very truly yours,

Edward P. Schneider

Edward P. Schneider
Vice President-Treasurer
Itel Corporation, Rail Division

Encls.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Edward P. Schneider
ITEL Corporation
One Embarcadero Center
San Francisco, California 94111

Dear Mr. Schneider:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on December 22, 1978 at 10:00 am, and assigned recordation number(s) 9932

Sincerely Yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

ITEL CORPORATION
(Rail Division)

Equipment Trust

1978

Series 3

EQUIPMENT TRUST AGREEMENT

between

CITIBANK, N.A.,
Trustee,

and

ITEL CORPORATION

Dated as of November 1, 1978

REGISTRATION NO. 1425

DEC 22 1978 10 50 AM

INTERSTATE COMMERCE COMMISSION

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EQUIPMENT TRUST AGREEMENT dated as of November 1, 1978, between CITIBANK, N.A. (hereinafter called the Trustee), a national banking association incorporated and existing under the laws of the United States of America, and ITEL CORPORATION, a Delaware corporation (hereinafter called ITEL).

WHEREAS ITEL has agreed to cause to be sold, transferred and delivered to the Trustee the railroad equipment described in Schedule A hereto;

WHEREAS title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to ITEL hereunder;

WHEREAS ITEL Corporation, 10% Equipment Trust Certificates, 1978 Series 3 (hereinafter, together with the guarantee of ITEL endorsed thereon, called the Trust Certificates, such term to include the singular as well as the plural number), are to be issued and sold from time to time in an aggregate principal amount not exceeding \$300,000,000, and the proceeds of such sale are to be deposited in trust with the Trustee and are to constitute a fund to be known as ITEL CORPORATION, EQUIPMENT TRUST, 1978 SERIES 3, to be applied by the Trustee in payment of a portion of the cost of the Trust Equipment, the remainder of the cost thereof to be paid by ITEL as provided herein;

WHEREAS ITEL has agreed to give and assign to the Trustee, as security for the obligations of ITEL hereunder, a security interest in all rents, moneys and proceeds due or to become due with respect to the Trust Equipment under all existing leases or leases hereinafter entered into to the extent that such leases cover any of the Trust Equipment;

WHEREAS the text of the Trust Certificates and the guarantee to be endorsed on the Trust Certificates by ITEL are to be substantially in the forms annexed hereto as Schedule B; and

WHEREAS it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof, as hereinafter more particularly provided, with any premium and the interest thereon, as hereinafter provided, each payable as herein and therein provided, and to evidence the rights of the holders of the Trust Certificates in substantially the form annexed hereto as Schedule B;

Now, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

ARTICLE ONE

DEFINITIONS

SECTION 1.01. *Definitions.* The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the respective meanings hereinafter specified:

Affiliate shall mean, with respect to any Person, any other Person which, directly or indirectly, controls or is controlled by, or is under common control with, such Person. For the purposes of this definition, *control* (including *controlled by* and *under common control with*), as used with respect to any Person, shall mean the pos-

session, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

Authorized Officer shall mean the chairman of the board of directors, the vice chairman of the board of directors, the chairman of the executive committee, the vice chairman of the executive committee, the president, any vice president, the cashier, the secretary, the treasurer, any senior trust officer, any trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, any manager, or any other employee of the Trustee authorized in writing by any of the above.

Business Day shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in The City of New York are authorized or obligated by law or executive order to close.

Capitalized Lease shall mean any lease of real or personal property which is required to be capitalized under Generally Accepted Accounting Principles as to which ITEL or a Restricted Subsidiary is the lessee.

Capitalized Lease Rentals shall mean all rentals in respect of Capitalized Leases discounted in respect of each Capitalized Lease in accordance with Generally Accepted Accounting Principles.

Cash Flow shall mean for the specified period as to which the term is used the sum of (i) Consolidated Net Income for such period before provision for United States and any other income taxes and (ii) depreciation and all other noncash items deducted from revenues in the computation of such Consolidated Net Income, including amortization of debt discount and goodwill, minus the sum of (y) United States and any other taxes actually paid during such period and (z) noncash items which were added to revenues in the computation of such Consolidated Net Income, including noncash residual values and deferred income items, all as determined in accordance with Generally Accepted Accounting Principles.

Consolidated shall mean, with respect to the accounting item being described, such accounting item of ITEL and its Restricted Subsidiaries, as consolidated in accordance with Generally Accepted Accounting Principles including the elimination of intercompany items and transactions and after appropriate adjustment for any minority interests.

Consolidated Balance Sheet shall mean the Consolidated balance sheet of ITEL as of September 30, 1978.

Consolidated Earnings Available for Interest Coverage shall mean for any period the sum of (i) Consolidated Net Income for such period, (ii) state, Federal and local taxes measured by income and excess profits which were deducted in the computation of Consolidated Net Income for such period and (iii) Consolidated Interest Expense for such period.

Consolidated Interest Expense shall mean for any period interest paid or accrued and unpaid during such period on all Consolidated Debt (excluding Capitalized Leases), including amortization of debt discount and expense, plus one-third of rentals

paid or accrued and unpaid during such period under each Capitalized and Non-capitalized Lease.

Consolidated Senior Borrowing Base shall mean at any time the sum of (i) Consolidated Stockholders' Equity and (ii) Consolidated Subordinated Debt not exceeding 75% of Consolidated Stockholders' Equity.

Corporate Trust Office shall mean the principal office of the Trustee in the State of New York, City of New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, on the date of execution of this Agreement, located at 111 Wall Street, New York, New York 10043.

Cost, when used with respect to a unit of Equipment, shall mean the actual cost thereof including delivery charges and taxes and excluding any discounts as set forth in the invoice of the Owner thereof.

Debt or Indebtedness shall mean without duplication (i) all indebtedness of ITEL or any Restricted Subsidiary for the repayment of borrowed money whether or not represented by bonds, debentures, notes or other securities, (ii) all Capitalized Lease Rentals, (iii) all indebtedness secured by any mortgage, pledge or lien existing on property or interests owned or held by ITEL or any Restricted Subsidiary (excluding any indebtedness secured and incurred as provided in Section 7.02(f) for the satisfaction of which the sole recourse of the obligee is the equipment and the proceeds therefrom by which such indebtedness is so secured) whether or not the indebtedness secured thereby shall have been assumed or guaranteed by ITEL or any Restricted Subsidiary, (iv) all guarantees, endorsements (other than endorsements of negotiable instruments for collection in the ordinary course of business) and other contingent liabilities (whether direct or indirect) of ITEL or any Restricted Subsidiary in connection with the obligations, stock or dividends of any Person, but excluding guaranteed indebtedness of any Unrestricted Subsidiary (a) the terms of which provide for more than three regularly scheduled payments and prohibit acceleration against the guarantor as long as the guarantor is not in default in making such regularly scheduled payments, and (b) with respect to which the Unrestricted Subsidiary is in default as to less than three consecutive payments, (v) obligations of ITEL or any Restricted Subsidiary under any contract providing for the making of loans, advances or capital contributions to any Person, or the purchase of any property from any Person, in each case in order to enable such Person primarily to maintain working capital, net worth or any other balance sheet condition to pay debts, dividends or expenses, (vi) obligations of ITEL or any Restricted Subsidiary under any contract for the purchase of materials, supplies or other property from any Person if such contract (or related document) requires that payment for such materials, supplies or other property shall be made regardless of whether or not delivery of such materials, supplies or property is ever made or tendered, (vii) obligations of ITEL or any Restricted Subsidiary under any contract to rent or lease (as lessee) any real or personal property if such contract (or any related document) provides that the obligation to make payments thereunder is absolute and unconditional under conditions not customarily found in commercial leases then in general use or requires that the lessee purchase or otherwise acquire securities or obligations of the lessor, (viii) obligations of ITEL or any Restricted Subsidiary under any contract for the sale or use

of materials, supplies or other property if such contract (or any related document) requires that payment for such materials, supplies or other property, or the use thereof, shall be subordinated to any indebtedness (of the purchaser or user of such materials, supplies or other property) owed or to be owed to any Person, (ix) obligations of ITEL or any Restricted Subsidiary under any other contract which, in economic effect, is substantially equivalent to a guarantee of the obligation of any Person, and (x) all indebtedness incurred or assumed by ITEL or any Restricted Subsidiary in connection with any merger, consolidation or acquisition of assets; *provided, however*, that Indebtedness shall not include drafts of ITEL or any Restricted Subsidiary under customary forms of letters of credit if (i) such drafts arise in the ordinary course of business in connection with the purchase of property and materials, (ii) are repaid within two Business Days of their issuance, (iii) at the time such drafts arise, ITEL and its Restricted Subsidiaries could have incurred Indebtedness in the amount thereof under Section 7.01 and (iv) at the time such drafts arise and during such two Business Days, ITEL and its Restricted Subsidiaries have unused and available bank credit lines under then outstanding credit and loan agreements in at least the amount thereof.

Any indebtedness of ITEL and its Restricted Subsidiaries shall not be included in the computation of "*Debt*" or "*Indebtedness*" during such period upon or prior to the stated maturity or scheduled date for the payment thereof as, in compliance with the instrument creating or representing such indebtedness, there is on deposit irrevocably in trust with the proper depository funds or other assets for the payment or satisfaction of such indebtedness; *provided, however*, that such funds or assets shall not be treated while so deposited as assets of the obligor for the purpose of determining compliance with any of the covenants and agreements contained in this Agreement.

Deferred Taxes shall mean (i) all deferred taxes in an amount that would appear on a balance sheet prepared in accordance with Generally Accepted Accounting Principles and (ii) all taxes appearing as a liability on such balance sheet, to the extent not otherwise included in (i), to the extent they are not due and payable within one year.

Deposited Cash shall mean the aggregate of (i) the proceeds from the sale of the Trust Certificates deposited with the Trustee pursuant to Section 2.01 and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 9.04, and (ii) any sums restored to Deposited Cash from rentals pursuant to Section 4.04(B)(1) and on deposit with the Trustee.

Equipment shall mean standard-gauge, (i) general purpose boxcars or (ii) intermodal flatcars; *provided, however*, that the aggregate Cost of all such (i) boxcars shall not exceed 75% of the aggregate Cost of all the Equipment and (ii) flatcars shall not exceed 35% of the aggregate Cost of all the Equipment; and that all Equipment shall be first put into use on or after June 30, 1978.

Event of Default shall mean any event specified in Section 5.01 to be an Event of Default.

Excess Restricted Investment shall mean all or any portion of any Restricted Investment which, as of the date of making such Restricted Investment, when added to all other Restricted Investments existing on such date, exceeds 15% of Consolidated Net Tangible Assets.

Funded Debt shall mean all Indebtedness which would in accordance with Generally Accepted Accounting Principles be classified as funded debt but in any event including all Indebtedness maturing by its terms more than one year after, or which is renewable or the maturity of which is extendable at the option of the obligor pursuant to the terms thereof for a period ending one year or more after the date of creation thereof, including current maturities thereon.

Generally Accepted Accounting Principles shall mean generally accepted accounting principles in effect as of September 30, 1978, except where such principles are inconsistent with the requirements of this Agreement.

The word *holder* or *holders*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and shall mean the person in whose name such Trust Certificate is registered. If pursuant to any agreement between the Trustee and any Purchaser or its assignee, any Trust Certificate shall be issued to such Purchaser or such assignee payable to order, transferable by endorsement, such word and the words "*registered holder*" as used herein shall include any such Purchaser or assignee.

Investments shall mean (i) certificates of deposit of any commercial bank incorporated under the laws of the United States of America or any state thereof having a capital and surplus aggregating not less than \$100,000,000 (or in the case of certificates not exceeding \$5,000,000, aggregating not less than \$50,000,000), provided that certificates of deposit (or repurchase agreements in respect thereof) of any one bank shall not at any time exceed \$25,000,000 in the aggregate, (ii) bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States are pledged to provide for the payment of the interest thereon and principal thereof, in each case maturing within one year after the date of investment therein, or (iii) any repurchase agreements in customary form in respect of certificates and obligations referred to in clauses (i) and (ii).

ITEL shall mean ITEL Corporation, a Delaware corporation, and its successor or successors complying with the provisions of Section 7.04.

Lease shall mean a lease agreement generally in the form annexed hereto as Schedule C covering Trust Equipment if (i) such lease agreement permits ITEL to terminate the lease agreement if utilization and/or mileage is below a specified minimum, (ii) the lesser of (A) the present value of the anticipated rentals under such lease agreement with respect to such Equipment and (B) the present value of the rentals computed at the specified minimum referred to in clause (i) above under such lease agreement with respect to such Equipment will be at least equal to 117.5% of the present value of the aggregate rentals payable by ITEL pursuant to Sections 4.04(B)(3) and 4.04(B)(4) with respect to such Equipment (present values to be determined by employing a 10% discount rate and assuming, when in the case of such Equipment described in clause (i) of the definition of Equipment no mileage minimum is specified, mileage of 60 miles per day) and (iii) such lease agreement provides

in substantially the terms of the second sentence of Section 7A of the form of lease agreement annexed hereto as Schedule C that it is subject to the rights and remedies of the Trustee hereunder.

Lease Assignment shall mean an assignment of a Lease or other lease authorized pursuant to Section 4.09 to the Trustee in substantially the form annexed hereto as Schedule D executed by ITEL.

Mandatory Sinking Fund Payment shall have the meaning set forth in Section 2.02.

Net Income shall mean net income (or loss), excluding any portion thereof applicable to minority interests, determined in accordance with Generally Accepted Accounting Principles excluding extraordinary gains in excess of extraordinary losses and undistributed earnings of unconsolidated subsidiaries and joint ventures.

Net Tangible Assets shall mean Tangible Assets minus the sum of (i) all reserves and deductions, including those for depreciation, depletion, amortization, bad debt losses, Deferred Taxes and minority interests, and (ii) all liabilities which, under Generally Accepted Accounting Principles, would appear on the liability side of a balance sheet.

Noncapitalized Lease shall mean any lease of real or personal property, other than Capitalized Leases, under which ITEL or a Restricted Subsidiary is the lessee.

Officer's Certificate shall mean a certificate signed by the President or a Vice President (having responsibility for finance, control or planning functions) of ITEL or of ITEL's transportation services group or rail division.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel satisfactory to the Trustee and who may be counsel for ITEL. The acceptance by the Trustee of, together with its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

Owner shall mean the manufacturer or owner of the Equipment transferring title thereto to the Trustee.

Person shall mean any individual, partnership, firm, joint venture, corporation, trust, unincorporated organization, government or political subdivision thereof, department or agency.

The terms *principal* and *principal amount* as used herein with respect to the Trust Certificates shall, unless the context otherwise requires, be deemed to include any premiums payable in respect of the Trust Certificates.

Purchase Agreement shall mean the Purchase Agreement dated as of November 1, 1978, among ITEL and the Purchasers.

Purchasers shall mean the purchasers named in Annex I to the Purchase Agreement.

Request shall mean a written request for the action therein specified, delivered to the Trustee, dated not more than ten days prior to the date of delivery thereof to

the Trustee and signed on behalf of ITEL by the President or a Vice President of ITEL or of ITEL's transportation services group or rail division.

Restricted Investment shall mean (i) any investment in any property whatsoever of, or (ii) any purchase of any stock or other securities or evidences of indebtedness of, or (iii) any capital contributions, loans or advances to (including the amount by which the fair market value of any property sold or transferred by ITEL or any Restricted Subsidiary exceeds the fair market value of the consideration received therefor by ITEL or such Restricted Subsidiary), or (iv) any assumption of liability in respect of any indebtedness of, any Person made by ITEL or any Restricted Subsidiary except (A) investments in direct obligations of the United States Government or any agency thereof or in obligations guaranteed by the full faith and credit of the United States Government, in each case maturing within one year after the date of investment therein, (B) certificates of deposit of, or time deposits with, any commercial bank in the United States having a capital and surplus aggregating at least \$100,000,000 (or, in the case of certificates and deposits not exceeding \$15,000,000, aggregating at least \$50,000,000), in each case maturing within one year after the date of investment therein, (C) any investments set forth in clauses (i) through (iv) above if made in a Restricted Subsidiary or in a corporation which, after the making of such investment, shall be a Restricted Subsidiary, (D) open market commercial paper rated A-1 (or the then equivalent grade) or better by Standard & Poor's Corporation or P-1 (or the then equivalent grade) or better by Moody's Investors Service, Inc., or the successor of either of them, (E) repurchase agreements in customary form in respect of obligations, certificates and deposits referred to in clauses (A) and (B), or (F) investments in the ordinary course of ITEL's insurance and reinsurance business by Subsidiaries engaged primarily in the insurance and reinsurance business in such securities as would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and preservation of their capital.

Restricted Subsidiary shall mean any Subsidiary which is not at the time an Unrestricted Subsidiary and at least 80% (exclusive of directors' qualifying shares) of each class of outstanding stock of which is owned by ITEL directly or indirectly through one or more Restricted Subsidiaries.

Senior Debt shall mean all Debt which is not Subordinated Debt.

Senior Funded Debt shall mean all Funded Debt which is also Senior Debt.

Short Term Debt shall mean all Debt which is payable on demand or which matures within one year from the date of incurrence, including bankers' acceptances payable on demand or within a period of one year from the date of creation thereof, and which is not renewable at the option of the obligor, excluding current maturities of Funded Debt.

Sinking Fund shall mean the sinking fund provided for in Section 4.04(B)(4)(a).

Stockholders' Equity shall mean as to any corporation at any time the total of its capital stock, surplus and retained earnings accounts, all as determined in accordance with Generally Accepted Accounting Principles.

Subordinated Debt shall mean ITEL's 9 $\frac{5}{8}$ % Subordinated Debentures due 1998, 5 $\frac{1}{2}$ % Convertible Subordinated Debentures due 1988 and 6 $\frac{3}{4}$ % Subordinated Debentures due 1989 if and to the extent the Trust Certificates constitute "Senior Indebtedness" under and as defined in the respective indentures under which such Debentures are issued and shall also mean all other unsecured Funded Debt of ITEL for money borrowed which (i) matures by its terms after December 1, 1994, (ii) is not subject to repayment prior to December 1, 1994, by means of serial maturities, sinking fund or other analogous plan requiring the retirement of more than 7 $\frac{1}{2}$ % of the original principal amount thereof in any one year, and (iii) is issued under any indenture or other instrument containing provisions for the subordination of such Debt (to which appropriate reference shall be made in the instruments evidencing such Debt) substantially as follows (the term "Debentures" being, for convenience, used in the provisions set forth below to designate the instruments issued to evidence Subordinated Debt and the term "this Indenture" to designate the indenture or other instrument under which the Debentures are issued and the term "Company" to designate ITEL):

"All Debentures issued under this Indenture shall be issued subject to the following provisions and each person holding any Debenture whether upon original issue or upon transfer or assignment thereof accepts and agrees to be bound by such provisions.

"All Debentures issued hereunder and any coupons thereto appertaining shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right to the prior payment in full of Superior Indebtedness as defined in this Section. For the purposes of this Section the Term 'Superior Indebtedness' shall mean (a) all equipment trust certificates issued or guaranteed by the Company, (b) all other indebtedness incurred by the Company for money borrowed unless by its terms it is provided that such indebtedness is not Superior Indebtedness, and (c) any deferrals, renewals or extensions of any such Superior Indebtedness, or debentures, notes or other evidences of indebtedness issued in exchange for such Superior Indebtedness.

"No payment on account of principal, premium, if any, sinking funds, or interest on the Debentures shall be made unless full payment of amounts then due for principal, premium, if any, sinking funds, and interest on Superior Indebtedness has been made or duly provided for in money or money's worth in accordance with its terms. No payment on account of principal, premium, if any, sinking funds (except from required deposits theretofore made, the conditions set forth below being satisfied at the time of deposit) or interest on the Debentures shall be made if, at the time of such payment (or required sinking fund deposit) or immediately after giving effect thereto, (i) there shall exist a default in the payment of principal, premium, if any, sinking funds or interest with respect to any Superior Indebtedness, or (ii) there shall have occurred an event of default (other than a default in the payment of principal, premium, if any, sinking funds or interest) with respect to any Superior Indebtedness, as defined therein or in the instrument under which the same is outstanding, permitting the holders thereof to accelerate the maturity thereof, and such event of default shall not have been cured or waived or shall not have ceased to exist.

"Upon (i) any acceleration of the principal amount due on the Debentures or (ii) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding-up or total or partial liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all principal, premium, if any, and interest due or to become due upon all Superior Indebtedness shall first be paid in full, or payment thereof provided for in money or money's worth in accordance with its terms, before any payment is made on account of the principal of, premium, if any, or interest on the indebtedness evidenced by the Debentures, and upon any such dissolution or winding-up or liquidation or reorganization any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the holders of the Debentures or the Trustee under this Indenture would be entitled, except for the provisions hereof, shall be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, or by the holders of the Debentures or by the Trustee under this Indenture if received by them or it, directly to the holders of Superior Indebtedness (pro rata to each such holder on the basis of the respective amounts of Superior Indebtedness held by such holder) or their representatives, to the extent necessary to pay all Superior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of Superior Indebtedness, before any payment or distribution is made to the holders of the indebtedness evidenced by the Debentures or to the Trustee under this Indenture.

"In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities shall be received in contravention of the foregoing by the Trustee or the holders of the Debentures before all Superior Indebtedness is paid in full, or provision made for such payment, in accordance with its terms, such payment or distribution shall be held in trust for the benefit of, and shall be paid over or delivered to, the holders of such Superior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Superior Indebtedness may have been issued, as their respective interests may appear, for application to the payment of all Superior Indebtedness remaining unpaid to the extent necessary to pay all such Superior Indebtedness in full in accordance with its terms, after giving effect to any concurrent payment or distribution to the holders of such Superior Indebtedness."

Subsidiary shall mean a corporation of which ITTEL owns, directly or indirectly (through one or more Subsidiaries or otherwise), at least 80% (exclusive of directors' qualifying shares) of each class of outstanding stock.

Tangible Assets shall mean all assets which, in accordance with Generally Accepted Accounting Principles, would appear on the asset side of a balance sheet (including leased property to which Capitalized Lease Rentals are attributed, but excluding intangible assets (such term, as used herein, meaning patents, franchises, trademarks, organizational expense and the like, treasury stock, goodwill and any

other identifiable or unidentifiable assets generally classified as intangible assets) and unamortized debt discount and expense).

Trust Certificates shall include the singular as well as the plural number and shall mean ITEL Corporation 10% Equipment Trust Certificates, 1978 Series 3, issued hereunder.

Trust Equipment shall mean all Equipment at any time subject to the terms of this Agreement.

Trustee shall mean Citibank, N.A., and, subject to the provisions of Article Nine, any successor as trustee hereunder.

Unrestricted Subsidiary shall mean any Subsidiary which has been designated by ITEL as an Unrestricted Subsidiary and any Subsidiary acquired or formed after the date of this Agreement, unless and until such Unrestricted Subsidiary or such Subsidiary so formed or acquired shall be designated by ITEL as a Restricted Subsidiary, all Subsidiaries in existence on the date of this Agreement being initially designated as Restricted Subsidiaries.

The words *herein, hereof, hereby, hereto, hereunder* and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof; and all references to numbered Articles, Sections, paragraphs and subdivisions, unless the context otherwise requires or unless the references thereto specify another agreement, refer to such Articles, Sections, paragraphs and subdivisions of this Agreement.

ARTICLE TWO

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.01. *Issuance of Trust Certificates.* Without waiting for the filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall from time to time issue and deliver Trust Certificates in such aggregate principal amounts as ITEL shall direct by Request, and as permitted by this Agreement, upon the deposit with the Trustee of an amount in cash equal to such aggregate principal amount of Trust Certificates to be issued and delivered.

Subject to the provisions of Section 2.08, the aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee under this Section shall not exceed the sum of \$300,000,000, and the aggregate principal amount represented by all the Trust Certificates shall be payable as hereinafter set forth.

SECTION 2.02. *Interests Represented by Trust Certificates; Interest; Maturity.* Each of the Trust Certificates shall represent an interest in the amount therein specified in the trust created hereunder and shall bear interest on the unpaid portion of said amount at the rate of 10% per annum, payable semiannually on June 1 and December 1 in each year commencing June 1, 1979, or the June 1 or December 1 immediately following the date of initial issuance of such Trust Certificate. Interest shall be payable on overdue payments of principal and interest at the rate of 11% per annum, to the extent legally enforceable.

The Trust Certificates are subject to redemption at 100% of the principal amount thereof to be redeemed plus accrued and unpaid interest to the date fixed for redemption through the application of the rental payable to the Trustee for the operation of the Sinking Fund, in an aggregate principal amount equal to 4.75% of the aggregate principal amount of the Trust Certificates issued pursuant to Section 2.01 less any credit provided for in Section 4.08 (the "Mandatory Sinking Fund Payment") on June 1 and December 1 of each year commencing December 1, 1984, and terminating June 1, 1994. In addition, ITEL, on June 1 and December 1 of each year commencing December 1, 1984, and terminating June 1, 1994, may, at its option, exercisable by a Request delivered to the Trustee at least 60 days prior to the redemption date, increase its Sinking Fund payments in order to redeem up to the same aggregate principal amount of Trust Certificates as equals the Mandatory Sinking Fund Payment payable on each such date (after giving effect to any credit provided for in Section 4.08); *provided, however*, that no increased Sinking Fund payments may at any time be made by ITEL if, after giving effect thereto, the aggregate of (x) all such increased Sinking Fund payments plus (y) the aggregate credits provided for in Section 4.08 resulting from redemptions without premium would exceed 15% of the aggregate principal amount of Trust Certificates issued pursuant to Section 2.01. To the extent that the optional right of redemption is not exercised on any Mandatory Sinking Fund Payment date, it shall not be cumulative or carried forward to any subsequent Mandatory Sinking Fund Payment date. The unpaid principal amount of the Trust Certificates will mature on December 1, 1994.

The Trust Certificates are redeemable (otherwise than through the operation of the Sinking Fund), as a whole or in part, at the option of ITEL, exercisable by Request delivered to the Trustee at least 60 days prior to the proposed redemption date, at the following redemption prices (expressed in percentages of principal amount), together with, in each case, accrued and unpaid interest to the date fixed for redemption:

If Redeemed During 12-Month Period Commencing December 2		Optional Redemption Price	If Redeemed During 12-Month Period Commencing December 2		Optional Redemption Price
1978	.....	110.00%	1986	.....	107.00%
1979	.....	110.00	1987	.....	106.00
1980	.....	110.00	1988	.....	105.00
1981	.....	110.00	1989	.....	104.00
1982	.....	110.00	1990	.....	103.00
1983	.....	110.00	1991	.....	102.00
1984	.....	109.00	1992	.....	101.00
1985	.....	108.00	1993	.....	100.00

provided, however, that no such redemption may be effected on or prior to December 1, 1989, as part of a refunding or anticipated refunding operation by the application, directly or indirectly, of borrowed funds or the proceeds of the sale of any sinking fund preferred stock having an effective interest cost or dividend yield, as the case may be, of less than 10% per annum or having, as of the date of the proposed redemption, a final maturity earlier than December 1, 1994, or a weighted average life to maturity less than the remaining weighted average life to maturity of the Trust Certificates to be redeemed. As used above, "weighted average life to maturity" of any indebtedness for borrowed money

(including any sinking fund preferred stock) means, at the time of the determination thereof, the number of years obtained by dividing the then remaining dollar-years of such indebtedness by the then outstanding principal amount of such indebtedness. "Remaining dollar-years" of any indebtedness for borrowed money (including any sinking fund preferred stock) means the sum of the products of (1) the amount of each then remaining sinking fund, serial maturity or other required repayment, including repayment at stated maturity, times (2) the number of years (calculated to the nearest one-twelfth) which will elapse between the date of proposed redemption and the date of that required repayment. The Trust Certificates are also redeemable upon certain occurrences as set forth in Sections 3.04, 4.06 and 4.08.

Interest on the Trust Certificates shall be calculated on an actual elapsed day and a 365-day year basis.

The principal of and interest on the Trust Certificates shall be payable at the Corporate Trust Office in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, but only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. Notwithstanding the provisions of the preceding sentence of this paragraph, in the case of payments of principal and interest to be made on a Trust Certificate not then to be paid in full, upon request and deposit of an agreement of the holder of such Trust Certificate (the responsibility of such holder to be satisfactory to ITEL) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the installments of principal amount represented thereby theretofore paid in whole or in part, the Trustee will mail its check on the date each such payment is due to such registered holder at his address shown on the registry books maintained by the Trustee; *provided, however*, that if, at the time payments of principal or interest are to be made, any Purchaser of Trust Certificates is a holder of Trust Certificates and such Purchaser directs the Trustee by request in writing to make payments of principal and interest to such Purchaser by check or wire transfer of Federal or immediately available funds at such address as shall be supplied to the Trustee by such Purchaser in writing (it being understood that the directions contained in Annex I of the Purchase Agreement shall be considered as such directions and requests in writing), the Trustee shall comply with such request (to the extent ITEL makes such funds available to the Trustee). Each payment of principal and interest made by check or wire transfer shall be identified as: "Payment of principal of [and/or interest on] ITEL Corporation, 10% Equipment Trust Certificates, 1978 Series 3, Due December 1, 1994."

SECTION 2.03. *Selection of Trust Certificates for Redemption; Notice of Redemption.* Prior to April 30 and October 31 in each year, commencing October 31, 1984, and terminating April 30, 1994, the Trustee shall designate for redemption a principal amount of each Trust Certificate, so as to exhaust the amount of rental to be paid by ITEL to the Trustee in cash pursuant to Section 4.04(B)(4)(a) on the next succeeding June 1 or December 1, whichever is earlier, and not less than 30 days prior to the date fixed for redemption of less than all the outstanding Trust Certificates (otherwise than through the operation of the Sinking Fund) the Trustee shall designate a principal amount of each Trust Certificate to be redeemed, in each case as follows:

(a) the portion of each Trust Certificate to be redeemed shall be designated by the Trustee by allocating, as nearly as may be to the nearest \$100, the principal

amount of Trust Certificates to be redeemed among the various outstanding Trust Certificates in proportion to the outstanding aggregate principal amount of such Trust Certificates; and

(b) in any prorating pursuant to this Section 2.03, the Trustee shall, according to such method as it may deem to be proper, make such adjustments, by increasing or decreasing by not more than \$100 the amount which would be allocable on the basis of exact proportion to any one or more Trust Certificates, as may be necessary to the end that the principal amount so prorated with respect to any one Trust Certificate shall be \$100 or a multiple thereof.

The Trustee shall promptly notify ITTEL in writing of the numbers (and the portions thereof) of the Trust Certificates selected for redemption.

The Trustee shall send a notice of redemption of the Trust Certificates by first-class mail, postage prepaid, at least 30 days prior to each redemption date to the holders of Trust Certificates, at their last addresses as they shall appear upon the registry book, but failure to receive such notice by mail, or any defect therein, shall not affect the validity of any provisions for the redemption of Trust Certificates.

Each notice of redemption (a) shall specify (i) the date fixed for redemption, (ii) the distinctive numbers of Trust Certificates to be redeemed as a whole, and the distinctive numbers of such Trust Certificates to be redeemed in part (indicating the extent of partial redemption thereof) and (iii) the redemption price and the provisions of this Agreement pursuant to which such Trust Certificates are being redeemed and (b) shall state that (i) from and after said date interest thereon or on the portion thereof to be redeemed will cease to accrue and (ii) payment of the redemption price shall be made by the Trustee only from and out of rentals or other moneys paid to the Trustee by ITTEL and applicable thereto, at the Corporate Trust Office, upon surrender of the Trust Certificates so to be redeemed in full, or upon presentation of such Trust Certificates to be redeemed in part for notation thereon of such payment, except as otherwise provided in the last paragraph of Section 2.02. The registered holders of Trust Certificates redeemed in part may, at their option and upon surrender thereof, receive a new Trust Certificate for the principal amount remaining unredeemed without charge to such holder.

The numbers of any Trust Certificates to be redeemed, required to be included in any such notice, may be stated in either of the following ways: individually, or in groups from one number to another number, both inclusive.

SECTION 2.04. *Payment of Trust Certificates Called for Redemption.* Notice of redemption having been given as above provided, and ITTEL on or before the redemption date specified in the notice of redemption having deposited with the Trustee an amount in cash sufficient to redeem all the Trust Certificates or portions thereof called for redemption, including accrued interest, the Trust Certificates or portions thereof called for redemption shall become due and payable on such redemption date, and from and after such redemption date interest on such Trust Certificate or portion thereof shall cease to accrue and such Trust Certificate or portion thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefit of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. Subject to the provisions of Section 9.09, the Trustee shall hold the redemption moneys for the

registered holders of the Trust Certificates or portions thereof called for redemption and, subject to the last paragraph of Section 2.02, shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

All Trust Certificates surrendered upon redemption under this Article Two shall be canceled by the Trustee and shall be disposed of as directed by a Request, and no Trust Certificates shall be issued hereunder in place of the principal amount thereof redeemed and paid.

SECTION 2.05. *Forms of Trust Certificates and Guarantee.* The Trust Certificates and the guarantee to be endorsed on the Trust Certificates by ITEL as provided in Section 6.01 shall be in substantially the form annexed hereto as Schedule B and, in the case of Trust Certificates of less than \$500,000 in principal amount, shall contain the legend set forth in such Schedule B.

SECTION 2.06. *Execution by Trustee.* The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or facsimile signature of one of its Senior Trust Officers, and the manual signature of one of its Authorized Officers, and its seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual or facsimile signature of one of its Trust Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before the Trust Certificates shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of the Trust Certificates, such Trust Certificates may be adopted by the Trustee and be issued and delivered as though such person had not ceased to be or had then been such officer of the Trustee.

SECTION 2.07. *Characteristics of Trust Certificates.* (a) The Trust Certificates shall be registered, as to both principal and interest, in the name of the holder; shall be transferable in whole or in part and exchangeable for Trust Certificates of other denominations of equal aggregate outstanding principal amount upon presentation and surrender thereof for registration of transfer or exchange at the Corporate Trust Office, accompanied, in the case of transfer, by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by its duly authorized attorney in fact, in form satisfactory to the Trustee; shall, in connection with the initial issuance of Trust Certificates, be dated as of the date of issue and shall, in connection with Trust Certificates issued in exchange for or upon registration of transfer of another Trust Certificate or Certificates, be dated as of the next preceding date to which interest has been paid or shall, if no interest has been paid thereon, be dated as of the date of initial issuance; and shall entitle the registered holder to interest from the date thereof.

(b) Anything contained herein to the contrary notwithstanding, prior to due presentment for registration of transfer the parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

(c) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration and registration of transfer of the Trust Certificates and, upon presentation of the Trust Certificates for such purposes, the Trustee shall register any transfer as hereinabove provided, and under such reasonable regulations as it may prescribe.

(d) For any registration, registration of transfer or exchange, the Trustee shall require payment by the person requesting same of a sum sufficient to reimburse it for any governmental charge connected therewith.

(e) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange for, or upon the registration of transfer of the whole or any part of, as the case may be, one or more other Trust Certificates shall carry all the rights to principal and to interest accrued and unpaid and to accrue, which were carried by the whole or such part, as the case may be, of such one or more other Trust Certificates, and, notwithstanding anything contained in this Agreement, such Trust Certificate shall be so dated that neither gain nor loss in interest or principal shall result from such exchange, substitution or registration of transfer.

(f) The Trustee shall not be required to issue, transfer or exchange Trust Certificates for a period of fifteen days next preceding any interest payment date or, in the case of selection of Trust Certificates for redemption, next preceding the completion of such selection.

(g) The Trustee shall not be required to transfer or exchange any Trust Certificate or portion thereof which has been selected for redemption.

(h) The Trustee shall not be required to transfer or exchange Trust Certificates if such transfer or exchange would be in violation of the Securities Act of 1933, as amended.

SECTION 2.08. *Replacement of Lost Trust Certificates.* In case any Trust Certificate shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate of like tenor and date, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancelation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, destroyed or stolen. ITEL shall execute its guarantee on any Trust Certificate so delivered. The applicant for a new Trust Certificate pursuant to this Section shall furnish to the Trustee and to ITEL evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate, and also shall furnish such security or indemnity as may be required by the Trustee and by ITEL in their discretion (it being understood that a letter of indemnity from the Purchaser of such Trust Certificate or any other similarly reputable institutional investor shall be deemed acceptable by the Trustee and ITEL). All Trust Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost destroyed or stolen Trust Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE THREE

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 3.01. *Acquisition of Equipment by Trustee.* As speedily as may be consistent with the requirements of any Lease covering Equipment to be subjected to the trust hereby created and of any agreement between ITEL and the Owner of any such

Equipment as to the schedule of delivery thereof, ITEL shall cause to be sold to the Trustee, as trustee for the holders of the Trust Certificates, Equipment (including the Equipment described in Schedule A hereto) which has an aggregate Cost not less than 125% of the aggregate principal amount of Trust Certificates issued pursuant to Section 2.01, all of which ITEL represents and warrants will be new Equipment first put into service on or after June 30, 1978. The Trustee hereby authorizes ITEL to accept such Equipment and such other Equipment as is described in the next succeeding paragraph of this Section on behalf of the Trustee.

In the event that ITEL shall deem it necessary or desirable to procure for the use of ITEL, and to include in the Trust hereby created, other new Equipment in lieu of any units of the Equipment specifically described in Schedule A hereto prior to the acceptance of such Equipment by or on behalf of the Trustee, or in the event that any unit of the Equipment described in Schedule A hereto shall suffer a Casualty Occurrence, as defined in Section 4.08, before being accepted by or on behalf of the Trustee pursuant to this Section and Section 3.04, ITEL may cause to be sold to the Trustee such other new Equipment to be substituted under the trust, in each case subject to compliance with the provisions of Section 3.04.

SECTION 3.02. *Payment of Deposited Cash.* When and as any Equipment shall have been accepted by the Trustee or its agent or agents pursuant to Sections 3.01 and 3.04, the Trustee shall (subject to the provisions of Section 3.03) pay, upon Request, to the Owner of the accepted Equipment out of Deposited Cash then held by the Trustee an amount not exceeding 80% of the aggregate Cost of such Equipment, as such Cost is specified in the Officer's Certificate furnished to the Trustee pursuant to Section 3.04(b).

SECTION 3.03. *Payment of Deficiency.* ITEL covenants that, contemporaneously with any payment by the Trustee pursuant to Section 3.02, it will either (a) pay to the Trustee the advance rental provided in Section 4.04(A), and thereupon the Trustee shall, upon Request, pay to the Owner of the accepted Equipment, by the use of such advance rental, the portion of the aggregate Cost of such Equipment not paid out of Deposited Cash as provided for in Section 3.02 or (b) deliver to the Trustee an executed counterpart of a receipt from such Owner evidencing the direct payment by ITEL to such Owner of that portion of the Cost of such Equipment equal to the amount of advance rental required to be paid to the Trustee pursuant to clause (a) of this sentence in respect of such Equipment or (c) if ITEL is the Owner of such Equipment, deliver to the Trustee a copy of the invoice and the bill of sale from the original manufacturer of such Equipment together with an Officer's Certificate certifying that such invoice and bill of sale are true and correct and that such manufacturer has been paid in full. The intention of this Section is that ITEL shall ultimately pay or absorb not less than 20% of the aggregate Cost of all the Equipment accepted by the Trustee as Trust Equipment pursuant to this Article Three, and the Trustee and ITEL shall at any time, if occasion arises, adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of such aggregate Cost and ITEL shall pay or absorb the remainder, to be not less than 20% of such Cost.

SECTION 3.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash for the purchase of any unit of Equipment unless and until it shall have received:

(a) a bill of sale covering such unit of Equipment from the Owner to the Trustee, which bill of sale shall specify such unit of Equipment described therein by number or numbers and shall contain a warranty or guarantee to the Trustee that the title of such unit of Equipment described therein is, (i) if ITEL is not the Owner, free from all claims, liens, security interests and other encumbrances (including any leasehold interest therein) existing at the time of delivery of such Trust Equipment to ITEL or arising from, through or under the Owner or (ii) if ITEL is the Owner, free from all claims, liens, security interests and other encumbrances (including any leasehold interest therein), except, in either such case, for this Agreement and the Lease and Lease Assignment with respect to such unit of Equipment specified in subparagraph (e) of this paragraph);

(b) an Officer's Certificate, which shall state that (i) such unit of Equipment is Equipment as herein defined, has been marked in accordance with Section 4.07 and was not put into service prior to a date specified therein, (ii) the Cost of such unit of Equipment is an amount therein specified or is not less than an amount therein specified and (iii) such unit of Equipment has been accepted by ITEL on behalf of the Trustee (with certificates of acceptance with respect to individual units of Equipment attached thereto);

(c) an invoice from the Owner of such unit of Equipment having endorsed thereon a certification by ITEL as to the correctness of the price stated therein;

(d) an Opinion of Counsel for the Owner or ITEL to the effect that such bill of sale is valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the Trustee title to such unit of Equipment free from all claims, liens, security interests and other encumbrances (except for this Agreement and the Lease and Lease Assignment with respect to such unit of Equipment specified in subparagraph (e) of this paragraph);

(e) an executed counterpart or certified copy of a Lease and of a Lease Assignment covering such unit of Trust Equipment, accompanied by an Officer's Certificate which shall state that the attached lease agreement is a Lease; and

(f) an opinion of Messrs. Brobeck, Phleger & Harrison, counsel for ITEL, or an opinion of other independent counsel satisfactory to the Trustee, to the effect that (i) this Agreement and the Lease and the Lease Assignment referred to in subparagraph (e) above, have been duly authorized, executed and delivered by ITEL and constitute legal, valid and binding obligations (said counsel being permitted to assume the due authorization, execution and delivery of such Lease by the lessee thereunder), subject, as to the enforcement of remedies, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect, (ii) subject to the effect of any unrecorded liens of which such counsel is unaware, the Trustee is vested with a valid first and prior perfected security interest in and to such unit of Trust Equipment and ITEL's interest in such Lease and all rents, moneys and proceeds due or to become due thereunder insofar as such interest relates to the Trust Equipment, (iii) this Agreement, such Lease and such Lease Assignment have been duly filed in accordance with all applicable requirements with the Interstate Commerce Commission and (iv) no other filings or recordings are necessary for the protection of the rights of the Trustee in and to such unit of Equipment, such Lease, such Lease Assignment or this Agreement in any State of the United States of America or the District

of Columbia. It is understood that in giving the opinion required by clauses (ii) and (iii) above, such counsel may rely upon a search by Messrs. Wilmer, Cutler & Pickering as to any filings with the Interstate Commerce Commission.

Any Officer's Certificate delivered pursuant to this Section may state that the Cost of the Equipment therein referred to is tentatively determined, but is not less than the amount specified, subject to final adjustment to be evidenced in a final Officer's Certificate to be delivered to the Trustee.

ITEL agrees that the average initial lease term of all Trust Equipment under all Leases delivered under subsection (e) above on the date of delivery of the last unit of Trust Equipment under this Agreement will equal at least 12 years.

If the aggregate Cost, as specified in the certificates theretofore delivered to the Trustee pursuant to this Section, of the Trust Equipment accepted by the Trustee pursuant to this Article Three shall be less than 125% of the aggregate principal amount of Trust Certificates issued pursuant to Section 2.01, ITEL will cause to be assigned and transferred to the Trustee additional Equipment in such amount and of such Cost that the aggregate Cost of the Trust Equipment will be at least equal to 125% of the aggregate principal amount of said Trust Certificates, and will concurrently deliver to the Trustee the documents specified in paragraphs (a) through (f) of this Section with respect to such additional Equipment. If on or before April 1, 1980, such assignment or transfer is not made as aforesaid, the Trustee shall apply the excess balance of Deposited Cash to the redemption, without premium, of Trust Certificates in like manner as is provided in the second paragraph of Section 4.08.

ARTICLE FOUR

LEASE OF TRUST EQUIPMENT TO ITEL

SECTION 4.01. *Lease of Trust Equipment.* The Trustee does hereby lease all the Trust Equipment to ITEL, for a period ending December 1, 1994.

SECTION 4.02. *Equipment Automatically Subjected.* As and when any Equipment shall from time to time be accepted hereunder by the Trustee or its agent or agents, the same shall, ipso facto and without further instrument of lease or transfer, become subject to all the terms and provisions hereof.

SECTION 4.03. *Additional and Substituted Equipment Subject Hereto.* In the event that ITEL shall, as provided in Sections 3.01, 3.04, 4.06 or 4.08, elect to cause to be sold to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described or subjected hereto, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee and ITEL and to be filed with the Interstate Commerce Commission in accordance with all applicable requirements. Such Equipment shall be subject to all the terms and conditions hereof in all respects as though it had originally been part of the Equipment herein specifically described.

SECTION 4.04. *Rental Payments.* ITEL hereby accepts the lease of all the Trust Equipment; and ITEL agrees to pay to the Trustee at the Corporate Trust Office (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rental hereunder which shall be sufficient to pay and discharge the

following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the acceptance of and lease to ITEL of any unit of the Trust Equipment):

(A) ITEL shall pay to the Trustee as hereinafter provided or shall provide evidence of having paid to the Owner, as advance rental hereunder, sums which in the aggregate shall be equal to the difference between the aggregate Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Section 4.06 or 4.08) and the portion of such Cost to be provided out of Deposited Cash as provided for in Section 3.02;

(B) In addition to such advance rental, ITEL shall pay to the Trustee, as hereinafter provided, as rental for the Trust Equipment (notwithstanding that any of the Trust Certificates shall have been acquired by ITEL or any Affiliate of ITEL or shall not have been presented for payment), the following:

(1) (a) the expenses of the trust hereby created, including but not limited to compensation and expenses provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at the time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investments;

(2) any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Agreement, which the Trustee as such may be required to pay;

(3) (a) the amounts of the interest payable on the Trust Certificates, when and as the same shall become payable, and (b) interest at the rate of 11% per annum from the due date, upon the amount of any installments of rental payable under this and the following subparagraph which shall not be paid when due, to the extent legally enforceable; and

(4) (a) on or before June 1 and December 1 in each year commencing December 1, 1984, and terminating June 1, 1994, as a sinking fund for the Trust Certificates an amount equal to the Mandatory Sinking Fund Payment plus such additional amount (not exceeding an amount equal to the Mandatory Sinking Fund Payment, subject to the limitations set forth in the second paragraph of Section 2.02), if any, as shall be specified in the Request referred to in the second paragraph of Section 2.02, and (b) amounts equal to the principal of the Trust Certificates (or, if applicable, the optional redemption price set forth in Section 2.02), when and as the same shall become payable, whether upon the date of maturity thereof or by redemption (otherwise than through the operation of the Sinking Fund), declaration or otherwise.

All payments made under this Section and Sections 3.03, 4.06 and 4.08 shall be made by wire transfer in immediately available or Federal funds at or before 11:00 a.m. local New York City time, on the date such payments are due.

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on ITEL (except as provided in Section 4.04(B)(2)) any obligation to pay to the registered holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America, or of any state, county, municipality or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate.

ITEL shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, provided that, in the judgment of the Trustee and as set forth in an Opinion of Counsel which shall have been furnished to the Trustee, the rights or interests of the Trustee or of the holders of the Trust Certificates may not be materially endangered thereby.

SECTION 4.05. *Termination of Trust and Lease.* After all payments due or to become due from ITEL hereunder shall have been completed and fully made to the Trustee (1) such payments shall be deemed to represent payment of the full purchase price for ITEL's purchase at such time of the Trust Equipment from the Trustee, (2) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to ITEL, (3) title to all the Trust Equipment shall vest in ITEL and (4) the Trustee shall execute for record in public offices, at the expense of ITEL, such instrument or instruments in writing as reasonably shall be requested by ITEL in order to make clear upon public records ITEL's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however*, that until that time title to the Trust Equipment shall not pass to or vest in ITEL, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by ITEL pursuant to the terms of this Agreement.

SECTION 4.06. *Substitution, Replacement and Release of Trust Equipment.* Upon Request, the Trustee shall, at any time and from time to time, execute and deliver a bill of sale assigning and transferring to the transferee named by ITEL all the right, title and interest of the Trustee in and to any or all of the units of Trust Equipment; *provided, however*, that (1) there shall be paid to the Trustee cash in an amount not less than the value, as of the date of such Request, of each unit of Trust Equipment to be assigned or transferred by the Trustee or (2) if no Event of Default shall have occurred and be continuing, there shall be conveyed to the Trustee at the time of assignment or transfer of any units of Trust Equipment, other units of Equipment of a value not less than the value of, as of the date of such Request, the units of Trust Equipment to be assigned or transferred and having an estimated useful life beyond December 1, 1994.

At the time of delivery of any Request pursuant to the first paragraph of this Section, ITEL shall, if other Equipment is to be conveyed to the Trustee in substitution for the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee the following papers:

(1) an Officer's Certificate certifying (i) the value, as of the date of said Request, of the Trust Equipment so to be assigned or transferred by the Trustee, the date such Trust Equipment was first put into service (or that such Trust Equipment was first put into service not later than a specified date), and that such Trust Equipment is being sold by ITEL to a Person other than an Affiliate of ITEL, (ii) the value of such substituted Equipment as of such date and the date such substituted Equipment was first put into service or that such substituted Equipment was first put into service not earlier than a specified date, (iii) that each unit so to be substituted is Equipment as herein defined, has an estimated useful life beyond December 1, 1994, and has been marked as provided in Section 4.07, and (iv) that no Event of Default hereunder has occurred or is continuing;

(2) a certificate, an invoice or invoices and a bill or bills of sale in respect of such substituted Equipment as provided for in subparagraphs (a) and (c) of the first paragraph of Section 3.04;

(3) an executed counterpart or a certified copy of a Lease or a lease authorized pursuant to Section 4.09 and of a Lease Assignment covering each unit of such substituted Equipment; and

(4) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Trustee title to each such substituted unit of Equipment free from all claims, liens, security interests and other encumbrances (except for this Agreement, any Lease or lease and the Lease Assignment referred to in subparagraph (3) above), (ii) that a proper supplement hereto in respect of each substituted unit of Equipment and the Lease or lease and Lease Assignment referred to in subparagraph (3) above have been duly authorized, executed and delivered by the parties thereto, constitute legal, valid and binding obligations, subject, as to enforcement of remedies, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect and have been filed with the Interstate Commerce Commission in accordance with all applicable requirements, and no other filings or recordations are necessary for the protection of the rights of the Trustee in and to such unit of Equipment, such Lease or lease, such Lease Assignment or this Agreement, in any State of the United States or the District of Columbia.

At the time of delivery of any Request pursuant to the first paragraph of this Section, ITEL shall, if cash is to be paid to the Trustee in respect of the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee an Officer's Certificate to the effect set forth in clause (1)(i) of the second paragraph of this Section.

Cash deposited with the Trustee pursuant to this Section or Section 4.08 shall, from time to time, so long as no Event of Default shall have occurred and be continuing, be paid over by the Trustee to ITEL upon Request, against conveyance to the Trustee of units of Equipment (1) having a value, as of the date of said Request, not less than the amount of cash being paid over by the Trustee to ITEL pursuant to such Request, (2) having an estimated useful life beyond December 1, 1994, and (3) upon delivery to the Trustee of papers corresponding to those set forth in the second paragraph of this Section, with such appropriate modifications as may be approved by the Trustee; *provided, however*, that cash on deposit with the Trustee at any time when an Event of Default shall have occurred and be continuing shall be applied by the Trustee to redeem, without premium, Trust Certificates.

For all purposes of this Section, where value is required to be determined in an Officer's Certificate or in connection with a Request, value shall be determined as follows (and the manner of such determination set forth in each Officer's Certificate furnished in respect thereof including a statement of actual fair market value):

(1) the value of any unit of Trust Equipment assigned or transferred by the the Trustee as provided in this Section shall be deemed to be the greater of (a) the actual fair market value thereof or (b) the Cost thereof as theretofore certified to the Trustee less 1/15 of such Cost for each full period of one year elapsed between (i)

the later of December 1, 1979, and the date such unit was first put into use, as certified to the Trustee, and (ii) the date of the Request furnished pursuant to this Section; and

(2) the value of any unit of Equipment conveyed to the Trustee as provided in this Section shall be deemed to be the lesser of (a) the actual fair market value thereof or (b) the original Cost of such unit less 1/15 of such Cost for each full period of one year elapsed between (i) the later of December 1, 1979, and the date such unit was first put into use, as certified to the Trustee, and (ii) the date of the Request furnished pursuant to this Section.

SECTION 4.07. *Marking of Trust Equipment.* ITEL has caused or will cause each unit of Trust Equipment before delivery of each such unit to be marked plainly, distinctly, permanently and conspicuously on each side of each unit of the Trust Equipment, in letters not less than one inch in height, with the following legend:

“OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED
WITH THE INTERSTATE COMMERCE COMMISSION

or such other words as shall be approved by the Trustee. Such marks shall be such as to be readily visible.

If any of such marks shall at any time be removed, defaced or destroyed, ITEL shall cause the same to be restored or replaced. ITEL shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee and which shall be filed by ITEL in like manner as this Agreement.

The Trust Equipment may be lettered in an appropriate manner for convenience of identification of the leasehold interest of ITEL therein, and may also be lettered in the case of any of the leases permitted in Section 4.09 in such manner as may be appropriate for convenience of identification of such leasehold interest therein; but ITEL, during the continuance of any lease provided for herein, will not allow the name of any Person to be placed on any of the Trust Equipment as a designation which might reasonably be interpreted as a claim of ownership thereof by ITEL or by any other Person other than the Trustee; *provided*, that the Trust Equipment may be lettered with the names or initials or other insignia customarily used by ITEL or its Affiliates or by the lessees of the Trust Equipment.

SECTION 4.08. *Maintenance of Trust Equipment; Casualty Occurrences; Insurance.* ITEL agrees that it will maintain or cause to be maintained and keep all the Trust Equipment in good order and proper repair at no cost or expense to the Trustee, unless and until it becomes worn out, unsuitable for use, lost, destroyed or damaged beyond economic repair (herein called a Casualty Occurrence). Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence, ITEL shall, within 30 days after it shall have been informed of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the value thereof as of the date such Trust Equipment suffered such Casualty Occurrence. When the total value of all units of the Trust Equipment having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence in respect of which a payment shall have been made to the Trustee pursuant to this Section) shall exceed \$375,000, or 1½% of the principal amount of the Trust Certificates then outstanding, whichever is less, ITEL,

within 30 days of such event, shall deposit with the Trustee an amount in cash equal to the value of such units as of the date of such deposit. The rights and remedies of the Trustee to enforce or to recover any of the rental payments to which the Trustee is otherwise entitled hereunder shall not be affected by reason of such Casualty Occurrence. For all purposes of this paragraph, the value of any unit of Trust Equipment (other than a replacement unit which suffers a Casualty Occurrence) shall be deemed to be that amount which bears the same ratio to that portion of the original Cost thereof paid by the Trustee pursuant to Section 3.02 as the aggregate unpaid principal amount of the Trust Certificates (without giving effect to any redemption thereof (except for redemption through the making of Mandatory Sinking Fund Payments) then or theretofore made pursuant to this Agreement), as of the date such determination of value is made, bears to the aggregate principal amount of the Trust Certificates issued pursuant to Section 2.01. For all purposes of this paragraph, the value of each replacement unit which suffers a Casualty Occurrence shall be deemed to be that amount which bears the same ratio to 80% of the value thereof (determined as provided in subparagraph (1) of the last paragraph of Section 4.06), as of the date of acquisition by the Trustee of such replacement unit, as the unpaid aggregate principal amount of the Trust Certificates (without giving effect to any redemption thereof (except for redemption through the making of Mandatory Sinking Fund Payments) then or theretofore made pursuant to this Agreement), as of the date such determination of value is made, bears to the unpaid aggregate principal amount of the Trust Certificates (without giving effect to any such redemption) as of the date of acquisition by the Trustee of such replacement unit. Cash deposited with the Trustee pursuant to this Section or Section 4.06 shall be held and applied at the election of ITEL (as evidenced by a Request) either (i) as provided in the fourth paragraph of Section 4.06 (except that the Equipment conveyed to the Trustee shall have a value not less than 125% of the amount of cash being paid over by the Trustee) if an Event of Default shall not have occurred and be continuing or (ii) to redeem (A) in the case of cash deposited pursuant to Section 4.06 (to the extent that such cash, together with the sum of (1) increased sinking fund payments previously made, or with respect to which a Request has been delivered, pursuant to Section 2.02, and (2) redemptions of Trust Certificates previously made, or with respect to which a Request has been delivered, pursuant to this Section and Section 4.06, does not exceed 15% of the aggregate amount of Trust Certificates issued pursuant to Section 2.01) and this Section, without premium, and (B) in the case of any other cash deposited pursuant to Section 4.06, at the applicable redemption price set forth in the third paragraph of Section 2.02, the principal of the Trust Certificates as hereinafter provided; and shall be applied as provided in clause (ii) if an Event of Default shall have occurred and be continuing.

In the event moneys deposited pursuant to this Section or Section 3.04 or 4.06 are to be applied to the redemption of Trust Certificates, such redemption shall be made on June 1, 1980, in the case of moneys deposited pursuant to Section 3.04, or otherwise on the June 1 or December 1 next succeeding the Request therefor (or as promptly as practicable in case an Event of Default shall have occurred and be continuing), which Request shall be delivered to the Trustee at least 60 days prior to the proposed redemption date, unless a shorter time shall be agreed to by the Trustee, in like manner as provided in Section 2.03. Any redemption made pursuant to this Section or Section 3.04 or 4.06 shall be credited *pro rata* against each of the rentals thereafter to be paid pursuant to Section 4.04(B)(4)(a) in respect of Mandatory Sinking Fund Payments.

ITEL agrees to furnish to the Trustee, on or before April 1 in each year commencing with 1980, an Officer's Certificate dated as of the preceding December 31, (1) stating the amount, description and numbers of the units of Trust Equipment that may have suffered a Casualty Occurrence or are then withdrawn for repairs (other than running repairs) since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (2) identifying the units of Trust Equipment then being leased by ITEL as permitted hereunder (including the name of each lessee, the term of each lease, the date of each agreement pursuant to which such Trust Equipment is leased and the date of filing of each Lease Assignment with respect thereto with the Interstate Commerce Commission) and specifying which units of Trust Equipment are not then being leased by ITEL and (3) certifying that ITEL is not in default under any provision of this Agreement or specifying all such defaults and the action being taken by ITEL to remedy the same. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect, at the expense of ITEL, the Trust Equipment, and ITEL covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection; *provided, however*, that ITEL shall not be obligated to interrupt the use of any unit of Trust Equipment in normal operations nor shall ITEL be liable for any injury to, or the death of, any agent or employee of the Trustee incurred while exercising any such right to inspect the Trust Equipment under the preceding provision of this sentence.

ITEL will, at its own expense, cause to be carried and maintained insurance in respect of the Trust Equipment in amounts and against risks customarily insured against by railroad companies on similar equipment.

SECTION 4.09. *Possession of Trust Equipment; Security Interest in Leases.* Except as provided in this Section, ITEL will not assign or transfer its rights hereunder, or transfer or lease the Trust Equipment or any part thereof, without the prior written consent of the Trustee; and ITEL shall not, without such written consent, except as herein permitted, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

So long as ITEL shall not be in default under this Agreement, ITEL shall be entitled to the possession of the Trust Equipment, and also to maintain, modify, alter, amend, terminate or enter into Leases and other leases of the Trust Equipment and to permit its use by, a lessee or user in the United States of America (or any state thereof or the District of Columbia) or in the Dominion of Canada or any Province or Territory thereof or in the Republic of Mexico, all subject, however, on substantially the terms of the second sentence of Section 7A of the form of lease agreement annexed hereto as Schedule C, to the rights and remedies of the Trustee hereunder; *provided, however*, (1) each such Lease or other lease shall be assigned to the Trustee pursuant to an assignment in substantially the form of a Lease Assignment and filed as provided in Section 6.03, (2) ITEL shall not without the prior written consent of holders of at least a majority in aggregate unpaid principal amount of the Trust Certificates enter into any Lease or other lease or car contract relating to the use of Trust Equipment with any lessee or user which is not a company duly incorporated under the laws of the United States or any State thereof, and (3) not more than 10% of the Units of Trust Equipment shall be used or located at any one time in the Dominion of Canada or any Province or Territory thereof and/or in the Republic of Mexico.

SECTION 4.10. *Indemnity.* Subject to the provisions of Section 9.02, ITEL agrees to indemnify, protect, save and keep harmless the Trustee and its respective successors, assigns, legal representatives, agents and servants, and the holders of the Trust Certificates, against any and all claims (including, without limitation, claims involving strict or absolute liability), liabilities, obligations, damages, penalties, taxes (other than income taxes on fees or other compensation received by the Trustee in its capacity as Trustee hereunder and other than income taxes on payments of principal of and interest on the Trust Certificates and any other payments to the holders thereof hereunder), actions, costs, suits, expenses or disbursements (including, without limitation, legal fees and expenses), or losses of any kind or nature whatsoever which may be imposed on or asserted against the Trustee and its respective successors, assigns, legal representatives, agents and servants or against the holders of the Trust Certificates or losses arising out of or connected with the ownership, lease, use, sublease, operation, manufacture, purchase, acceptance, rejection, delivery, possession, maintenance, condition, registration, filing, sale, return, storage, or other disposition of any of the Trust Equipment, and particularly against any and all claims, liabilities or losses arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the States and other jurisdictions in which the Trust Equipment, or any unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation, all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however,* that ITEL may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the reasonable judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. ITEL shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE FIVE

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.01. *Events of Default.* ITEL agrees that in case:

(a) ITEL shall default in the payment of (i) that part of the rental payable hereunder required to make Mandatory Sinking Fund Payments and payments upon the date of maturity in respect of the Trust Certificates or (ii) any other part of the rental payable hereunder (including advance rental) or any amount payable pursuant to its guarantee of the Trust Certificates for more than 10 days after the same shall have become due and payable; or

(b) ITEL shall suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or lease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust

Equipment, and shall fail or refuse either to cause such assignment or transfer or lease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancelation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the value, as of the date of such unauthorized action (determined in the manner provided in subparagraph (1) of the last paragraph of Section 4.06), of such Trust Equipment (any sum so deposited to be returned to ITEL upon the cancelation of such assignment, transfer or lease and the recovery of possession by ITEL of such Trust Equipment); or

(c) ITEL shall, for more than 30 days, fail or refuse to comply with the terms of the first sentence of the first paragraph, or the last paragraph, of Section 4.08 or of Section 6.02; or

(d) ITEL shall, for more than 30 days after either (i) the Trustee shall have demanded in writing performance thereof or (ii) the President of ITEL, any executive officer of ITEL who has responsibility for finance, control or planning functions or the chief financial officer of ITEL's transportation services group or of its rail division shall have knowledge thereof, fail or refuse to comply with any other of the terms and covenants hereof, of the Purchase Agreement or of any Lease Assignment on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance; or

(e) ITEL or any Restricted Subsidiary shall default in any payment of any Indebtedness beyond any period of grace provided with respect thereto, or shall default in the performance of any other agreement, term or condition contained in any agreement under which any such Indebtedness is created, and (i) the effect of such default, if it occurs prior to the stated maturity or scheduled date for the payment thereof, is to cause Indebtedness to become due prior to the stated maturity or scheduled date for the payment thereof and (ii) the aggregate principal amount of Indebtedness (including the Indebtedness, if any, with respect to which there exists a default in payment) which becomes due prior to the stated maturity or scheduled date for payment (including for this purpose the full amount of Capitalized Lease Rentals) exceed 5% of the aggregate principal amount of all Consolidated Fund Debt at the time outstanding; or

(f) any representation or warranty made by ITEL herein or in any writing furnished in connection with or pursuant to this Agreement or the Purchase Agreement shall be false in any material respect as of the date as of which made; or

(g) a decree or order shall have been entered by a court of competent jurisdiction adjudging ITEL, or one or more Restricted Subsidiaries whose aggregate Net Tangible Assets are equal to not less than 5% of Consolidated Net Tangible Assets at the end of the immediately preceding fiscal quarter of ITEL, a bankrupt or insolvent or approving as properly filed a petition seeking reorganization or arrangement of ITEL or any such Restricted Subsidiaries under the Bankruptcy Act, or any other Federal or state law relating to bankruptcy or insolvency, or appointing a receiver or decreeing or ordering the winding up or liquidation of the affairs of ITEL or any such Restricted Subsidiaries (and each such decree or order shall not have been discharged, stayed or otherwise rendered ineffective within 60 days after such entry); or

(h) ITEL, or one or more Restricted Subsidiaries whose aggregate Net Tangible Assets are equal to not less than 5% of Consolidated Net Tangible Assets at the end of the immediately preceding fiscal quarter of ITEL, shall file a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or shall consent to the filing of any such petition against it or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver, trustee or liquidator of ITEL or any such Restricted Subsidiaries or action shall be taken by ITEL or any such Restricted Subsidiaries in furtherance of any of the aforesaid purposes; or

(i) any final judgment or judgments for the payment of money aggregating in excess of \$1,000,000 is or are outstanding against one or more of ITEL and any Restricted Subsidiary and any one of such judgments has been outstanding for more than 30 days from the date of its entry and has not been discharged in full or stayed; or

(j) any order, judgment or decree is entered in any proceedings against ITEL or any Restricted Subsidiary decreeing a split-up (other than a split-up requiring a divestiture permitted by Section 7.04 or 7.09) of ITEL or such Restricted Subsidiary which requires the divestiture of 15% or more, or the divestiture of the stock of a Restricted Subsidiary or Subsidiaries whose assets constituted 15% or more, of Consolidated Tangible Assets at the end of the fiscal quarter of ITEL immediately preceding the date of entry of such order, judgment or decree or which requires the divestiture of assets or stock of a Restricted Subsidiary or Subsidiaries which shall have contributed 15% or more of Consolidated Net Income for the four fiscal quarters then most recently ended, and such order, judgment or decree remains unstayed and in effect for more than 60 days;

then, in any such case (herein sometimes called an Event of Default), the Trustee in its discretion may, and upon the written request of (x) the holders of a majority, if such request is made with respect to an Event of Default under subparagraphs (b) or (f) of this paragraph or (y) the holders of at least 25%, if such request is made with respect to an Event of Default under subparagraphs (a), (c), (d), (e), (g), (h), (i) or (j) of this paragraph, in aggregate unpaid principal amount of the then outstanding Trust Certificates, the Trustee shall, by notice in writing delivered to ITEL, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of interest accruing after the date of such declaration) payable by ITEL, as set forth in Section 4.04 and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the rate of 11% per annum, to the extent legally enforceable, on any portion thereof overdue. Notwithstanding any of the foregoing, any holder of a Trust Certificate shall have the immediate right to bring suit against ITEL under its guarantee endorsed on such Trust Certificate if there shall be a default in the payment of interest on, the principal of or any Mandatory Sinking Fund Payment with respect to such Certificate.

In case any one or more Events of Defaults shall happen, the Trustee in its discretion also may, and upon the written request of the holder or holders of the then outstanding

Trust Certificates the written request of which would require the Trustee to accelerate rentals under the next preceding paragraph of this Section 5.01 as a result of the occurrence of such Event of Default shall, by notice in writing delivered to ITEL, declare the unpaid principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

In case ITEL shall fail to pay any installment of rental payable pursuant to Section 4.04(B)(3) or (B)(4), when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of ten days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against ITEL or any other obligor upon the Trust Certificates and collect in the manner provided by law out of the property of ITEL or any other obligor upon the Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of ITEL under the Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of ITEL, or in case of any other similar judicial proceedings relative to ITEL, or to the creditors or property of ITEL, the Trustee, irrespective of whether the rental payments hereunder or the unpaid principal amount of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of interest accruing after the date of such payment of all amounts due), and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or wilful misconduct) and of the holders of the Trust Certificates allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the holders of the Trust Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Trust Certificates, to pay to the Trustee such amount (which to the extent necessary shall be deducted and paid from the amounts payable to the holders) as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or wilful misconduct.

All rights of action and to assert claims under this Agreement or under any of the Trust Certificates, may be enforced by the Trustee without the possession of any of the Trust Certificates or the production thereof on any trial or other proceedings relative

thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as Trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Trust Certificates. In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provisions of this Agreement to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Trust Certificates, and it shall not be necessary to make any holders of the Trust Certificates parties to such proceedings.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any holder of Trust Certificates any plan of reorganization, arrangement, adjustment or composition affecting the Trust Certificates or the rights of any holder thereof, or to authorize the Trustee to vote in respect of the claim of any holder of Trust Certificates in any such proceeding.

SECTION 5.02. *Remedies.* In case of the happening of any Event of Default, the Trustee may by its agents enter upon the premises of ITEL and of any Affiliate or of any lessee (or other person having acquired the use of the Trust Equipment) where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, incentive per diem, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease or otherwise contract for the use of the Trust Equipment or any part thereof; or the Trustee may with or without retaking possession (but only after declaring due and payable the entire amount of rentals payable by ITEL and the unpaid principal of all the then outstanding Trust Certificates, as provided in Section 5.01) sell the Trust Equipment or any part thereof, free from any and all claims of ITEL at law or in equity, in one lot and as an entirety or in separate lots, at public or private sale for cash or upon credit in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of then outstanding Trust Certificates, all subject to any mandatory requirements of law applicable thereto. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that ITEL may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal, lease or sale of the Trust Equipment, ITEL shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by ITEL and no payments theretofore made by ITEL for the rent or use of the Trust Equipment or any of it shall give to ITEL any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking of possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from ITEL of rentals then or thereafter due and payable, or of principal and interest in respect of the Trust Certificates, and ITEL shall be and remain liable for the same until such sums have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the obligations of ITEL under this Agreement.

SECTION 5.03. *Application of Proceeds.* If the Trustee shall exercise any of the powers conferred upon it by Sections 5.01 and 5.02, all payments made by ITEL to the Trustee, and the proceeds of any judgment collected from ITEL by the Trustee, and the proceeds of every sale or lease by the Trustee of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates or a part thereof, or interest thereon) shall be applied by the Trustee to the payment in the following order of priority, (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement and (b) of the interest then due, with interest on overdue interest at the rate of 11% per annum, to the extent legally enforceable, on and of the principal of all the outstanding Trust Certificates, with interest on any overdue portion thereof at the rate of 11% per annum, to the extent legally enforceable, whether or not such Trust Certificates shall have been matured by their terms, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then pro rata without preference between principal and interest.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to ITEL free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, ITEL agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to ITEL.

SECTION 5.04. *Waivers of Default.* Prior to the declaration of the acceleration of the maturity of the rentals and of the maturity of all the Trust Certificates as provided in Section 5.01, the holders of not less than 66 $\frac{2}{3}$ % in aggregate unpaid principal amount of the Trust Certificates at the time outstanding may on behalf of the holders of all the Trust Certificates waive by an instrument in writing delivered to the Trustee any past default and its consequences, except a default in the payment of any installment of rental payable pursuant to Section 4.04(B)(3) or (B)(4), but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

If at any time after the principal of all the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as provided in Section 5.01, but before December 1, 1994, all arrears of rent (with interest at the rate of 11% per annum upon any overdue installments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by ITEL's default, and all other sums which shall have become due and payable by ITEL hereunder shall be paid by ITEL before any sale or lease by the Trustee of any of the Trust Equipment, and every other default shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested in writing by the holders of a majority in aggregate unpaid principal amount of the Trust Certificates then outstanding, shall by written notice to ITEL waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.05. *Obligations of ITEL Not Affected by Remedies.* No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against ITEL or in respect of the Trust Equipment on the part of the Trustee or on the part of the holder of any Trust Certificate, nor any delay or indulgence granted to ITEL by the Trustee or by any such holder, shall affect the obligations of ITEL hereunder or the obligations of ITEL under the guarantee endorsed on the Trust Certificates.

ITEL hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any default in the payment of the principal of and interest on the Trust Certificates.

SECTION 5.06. *ITEL to Deliver Trust Equipment to Trustee.* In case an Event of Default shall occur and be continuing and the Trustee shall demand possession of any of the Trust Equipment ITEL will, as soon as possible, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of ITEL, on any lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. The performance of the foregoing covenant is of the essence of this Agreement, and upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against ITEL, requiring the specific performance thereof.

SECTION 5.07. *Trustee to Give Notice of Default.* The Trustee shall give to the registered holders of the Trust Certificates notice of each Event of Default hereunder actually known to the Trustee at its Corporate Trust Office, within 30 days after it so learns of the same, unless remedied or cured before the giving of such notice.

SECTION 5.08. *Control by Holders of Trust Certificates.* The registered holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however*, that the Trustee shall have the right to decline to follow any such direction (i) if the Trustee shall be advised by counsel that the action so directed may not lawfully be taken or (ii) if the Trustee shall be advised by counsel that the action so directed may involve it in personal liability as to which the holders have not agreed fully to indemnify the Trustee. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with any such direction given hereunder.

SECTION 5.09. *Remedies Cumulative; Subject to Mandatory Requirements of Law.* The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; and such remedies so provided in this Agreement shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent such requirements may not be waived on the part of ITEL.

ARTICLE SIX

ADDITIONAL AGREEMENTS BY ITEL

SECTION 6.01. *Guarantee of ITEL.* ITEL unconditionally covenants, agrees and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof and of this Agreement (including the Mandatory Sinking Fund Payment requirements) (and, if not so paid, with interest thereon until paid at the rate of 11% per annum, to the extent legally enforceable), and shall receive interest thereon in like money at the rate specified therein, at the times and place and otherwise as expressed in the Trust Certificates (and, if not so paid, with interest thereon until paid at the rate of 11% per annum, to the extent legally enforceable); and ITEL agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guarantee of the prompt payment of the principal thereof (including any Mandatory Sinking Fund Payments with respect thereto) the interest thereon, in substantially the form set forth in Schedule B hereto. Said guarantee so endorsed shall be signed in the name and on behalf of ITEL, by the manual signature of the President, any Vice President or the Treasurer of ITEL or any other officer of ITEL authorized by its Board of Directors. In case any such officer of ITEL whose signature shall appear on said guarantee shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guarantee shall nevertheless be as effective and binding upon ITEL as though the person who signed said guarantee had not ceased to be or had then been such officer.

SECTION 6.02. *Discharge of Liens.* ITEL agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien, charge, security interest or other encumbrance upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings (and proper reserves therefor shall have been established if required by ITEL's independent certified public accountants), provided that such contest will not materially endanger the rights or interest of the Trustee or of the holders of the Trust Certificates and ITEL shall have furnished the Trustee with an Opinion of Counsel to such effect. If ITEL does not forthwith pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any such debt, tax, charge, assessment, obligation or claim as required by this Section, the Trustee may, but shall not be obligated to, pay and discharge the same and any amount so paid shall be secured by and under this Agreement until reimbursed by ITEL.

SECTION 6.03. *Filing.* ITEL will, promptly after the execution and delivery of this Agreement, each Lease covering Trust Equipment, each lease authorized pursuant to Section 4.09, each Lease Assignment and each supplement or amendment hereto or thereto, cause the same to be duly filed with the Interstate Commerce Commission in accordance with all applicable requirements. ITEL will from time to time do and perform any other

act and will execute, acknowledge, deliver, file, register and record and will refile, reregister and rerecord any and all further instruments required by the laws of the United States of America or any State thereof or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof and from time to time shall provide such Opinions of Counsel as reasonably requested by the Trustee with respect to such matters.

Promptly after the execution and delivery of this Agreement, each Lease, each lease authorized pursuant to Section 4.09, each Lease Assignment and each supplement or amendment hereto or thereto, ITEL will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, such document has been properly deposited, filed, registered and recorded and redeposited, refiled, reregistered and rerecorded, if necessary, so as effectively to protect the title of the Trustee to the Trust Equipment and with respect to the filing of such Lease Assignment, the security interest of the Trustee in the Lease or such other lease authorized pursuant to Section 4.09 covered by such Lease Assignment under the laws of the United States of America or any State thereof and its rights and the rights of the holders of the Trust Certificates hereunder and thereunder and reciting the details of such action.

SECTION 6.04. *Additional Agreements.* ITEL agrees that from the date hereof and until payment in full of the principal and the interest on the Trust Certificates, unless holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of Trust Certificates then outstanding shall otherwise consent in writing, it will:

(a) and will cause each Restricted Subsidiary to, (i) unless it is consolidated, merged or conveyed as permitted hereunder, maintain and keep in full force and effect its corporate existence, rights and franchises necessary or useful to the proper conduct of its business; *provided that*, nothing contained in this clause (i) shall require the maintenance, preservation or renewal of any right or franchise not necessary or desirable in the conduct of the business of ITEL or a Restricted Subsidiary, as the case may be, or the existence of any non-Material Subsidiary of ITEL or any Restricted Subsidiary, if termination of such right or franchise or termination of the existence of such non-Material Subsidiary is, in the opinion of ITEL, in the best interests of ITEL or such Restricted Subsidiary and is not disadvantageous to the holders of the Trust Certificates (for purposes of this clause (i) only, a "Material Subsidiary" shall mean any Restricted Subsidiary with Tangible Assets of more than \$5,000,000); (ii) comply with all applicable laws, ordinances, rules, regulations and requirements of governmental authorities (including, without limitation, the Employee Income Retirement Security Act of 1974); *provided that* nothing contained in this clause (ii) shall require compliance with any laws so long as the validity or applicability thereof shall be disputed or contested in good faith by appropriate proceedings; and (iii) maintain its properties in good condition and working order and repair; *provided that*, so long as ITEL or a Restricted Subsidiary in good faith seeks to require compliance with leases pursuant to the terms of which the lessees thereof have undertaken such obligations, neither ITEL nor any Subsidiary shall be obligated under this clause (iii) with respect to property subject to such leases until ITEL or such Subsidiary shall have knowledge of a lessee's breach of such undertaking, *provided, further, that*, but subject to the other provisions hereof, nothing in this

clause (iii) shall prevent ITEL or a Restricted Subsidiary from selling, abandoning or otherwise disposing of any property whenever, in the good faith judgment of ITEL or such Restricted Subsidiary such property is obsolete, worn out or without economic value;

(b) maintain, and will cause each Restricted Subsidiary to maintain, insurance on its insurable property, real and personal, tangible and intangible, at all times in such form and in such amounts and against such risks as are customarily insured against by Persons in similar businesses (except, subject to the other provisions hereof, to the extent that ITEL or such Restricted Subsidiary in the exercise of prudent business judgment determines to do otherwise), in every case under a policy with a good and reputable insurance company and only with such deductibles as are customary; *provided* that, so long as ITEL or a Restricted Subsidiary in good faith seeks to require compliance with leases pursuant to the terms of which the lessees thereof have undertaken such obligations, neither ITEL nor any Restricted Subsidiary shall be obligated under this subsection (b) with respect to property subject to such leases until ITEL or such Subsidiary shall have knowledge of a lessee's breach of such undertaking; ITEL shall, upon the request of the Trustee or any holder of a Trust Certificate, submit evidence of the maintenance of the insurance required by this subsection (b);

(c) keep, and will cause each Restricted Subsidiary to keep, proper books of record and account in which full, true and correct entries in accordance with generally accepted accounting principles shall be made of all dealings and transactions in relation to its business and activities;

(d) as soon as possible and in any event no later than five Business Days after it shall have knowledge of such event, give written notice to the Trustee and the holders of the Trust Certificates of (i) the occurrence of any Event of Default, (ii) the rendering of a final judgment or judgments against ITEL or any Restricted Subsidiary that aggregate for ITEL and the Restricted Subsidiaries in excess of \$1,000,000 not covered by insurance, (iii) the commencement of any material litigation or proceedings affecting ITEL or any Restricted Subsidiary and the existence of any threatened litigation or proceeding, known to an officer of ITEL, between ITEL or any Restricted Subsidiary and any governmental authority or any other party if such litigation or proceeding might result in any material adverse change in the business or prospects or condition (financial or otherwise) or the properties and assets of ITEL and the Restricted Subsidiaries taken as a whole; and

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(e) not permit greater than 5% of the Trust Equipment to be leased to lessees incorporated, or having their principal place of business, or owning fixed railroad assets, in the State of California.

SECTION 6.05. *Further Assurances.* ITEL agrees that from time to time it will do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

ARTICLE SEVEN

NEGATIVE COVENANTS

ITEL agrees that from the date hereof and until payment in full of the principal and the interest on the Trust Certificates, unless holders of not less than 66⅔% in aggregate

principal amount of Trust Certificates then outstanding shall otherwise consent in writing, it will not, nor will it permit any Restricted Subsidiary to:

SECTION 7.01. *Indebtedness.* Incur, create, assume or permit to exist any Indebtedness except

(a) Subordinated Debt as shown on the Consolidated Balance Sheet to the extent such Subordinated Debt is outstanding on the date hereof;

(b) additional Subordinated Debt; *provided, however,* that, at the time of and after giving effect to the incurrence thereof, the aggregate of Consolidated Subordinated Debt will not exceed 100% of Consolidated Stockholders' Equity;

(c) Senior Funded Debt as shown on the Consolidated Balance Sheet to the extent such Senior Funded Debt is outstanding on the date hereof;

(d) additional Senior Funded Debt; *provided however,* that, at the time of and after giving effect to the incurrence thereof, the total of all Consolidated Senior Funded Debt (including, for purposes of this Section 7.01(d) only, the highest aggregate principal amount of Short Term Debt of ITEL and its Restricted Subsidiaries outstanding on any one day during the 45 consecutive day period during the immediately preceding 12 month period during which ITEL and its Restricted Subsidiaries had outstanding the lowest aggregate principal amount of Short Term Debt) both (i) will not exceed (A) 475%, if such Senior Funded Debt is incurred on or prior to December 31, 1980, (B) 500%, if such Senior Funded Debt is incurred on or after January 1, 1981, and on or prior to December 31, 1983, or (C) 485%, if such Senior Funded Debt is incurred on or after January 1, 1984, of the Consolidated Senior Borrowing Base and (ii) will not exceed (A) 375%, if such Senior Funded Debt is incurred on or prior to December 31, 1982, or (B) 350%, if such Senior Funded Debt is incurred on or after January 1, 1983, of the sum of the Consolidated Senior Borrowing Base and Consolidated Deferred Taxes;

(e) such of the Indebtedness of a corporation as exists at the time when, within the limitations set forth in Sections 7.03 and 7.04, such corporation (i) hereafter becomes a Restricted Subsidiary, (ii) is consolidated with or merged into ITEL or one of its Restricted Subsidiaries, or (iii) substantially all the assets of such corporation are acquired by ITEL or one of its Restricted Subsidiaries; *provided, however,* that the relevant debt tests of Sections 7.01(b) and (d) shall at all times be met as if such Indebtedness was then being incurred; and

(f) Short Term Debt; *provided, however,* that neither ITEL nor any Restricted Subsidiary shall at any time create, assume or suffer to exist any Short Term Debt unless there shall have been a period of at least 45 consecutive days in the immediately preceding 12 month period during which ITEL and its Restricted Subsidiaries had no Short Term Debt outstanding, *provided, further,* that if on any date when ITEL and its Restricted Subsidiaries are prohibited from creating, assuming or suffering to exist Short Term Debt by the provisions of the foregoing proviso of this Section 7.01(f), ITEL and its Restricted Subsidiary may nevertheless create, assume or suffer to exist Short Term Debt if throughout the 45 consecutive day period during such 12 month period during which ITEL and its Restricted Subsidiaries had outstanding the lowest aggregate principal amount of Short Term Debt, ITEL and its Restricted Subsidiaries were permitted by Section 7.01(d) to incur additional Senior Funded

Debt equal to the highest aggregate principal amount of Short Term Debt of ITEL and its Restricted Subsidiaries outstanding on any one day during such 45 day period.

SECTION 7.02. *Liens.* Incur, create, assume or permit to exist any mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever (including conditional sales or other title retention agreements) on any property or assets now owned or hereafter acquired by it, other than:

(a) liens for taxes or assessments and similar charges, either (i) not delinquent or (ii) being contested in good faith by appropriate proceedings in accordance with the requirements of Section 6.02;

(b) liens incurred or pledges and deposits in connection with workmen's compensation, unemployment insurance, old-age pensions and other social security benefits or securing the performance of bids, tenders, leases, contracts (other than for the repayment of borrowed money), statutory obligations, surety and appeal bonds and other obligations of like nature, incurred as an incident to and in the ordinary course of business;

(c) statutory liens of landlords and other liens imposed by law, such as mechanics', carriers', warehousemen's, materialmen's and vendors' liens, incurred in good faith in the ordinary course of business, and deposits made in the ordinary course of business to obtain the release of any such liens;

(d) zoning restrictions, easements, licenses, reservations, provisions, covenants, conditions, waivers, restrictions on the use of property or minor irregularities of title (and with respect to leasehold interests, mortgages, obligations, liens and other encumbrances incurred, created, assumed or permitted to exist and arising by, through or under or asserted by a landlord or owner of the leased property, with or without consent of the lessee), none of which, in the opinion of ITEL, materially impairs the use of such property in the operation of the business of ITEL or any Restricted Subsidiary or the value of such property for the purpose of such business;

(e) liens created by or resulting from any litigation or proceeding which is currently being contested in good faith by appropriate proceedings and as to which ITEL or a Restricted Subsidiary, as the case may be, shall have set aside on its books adequate reserves;

(f) subject to each and every other Section of this Article Seven, leases, security agreements, mortgages, conditional sales or title retention contracts to secure the purchase price of fixed or capital assets purchased or leased by ITEL or any of its Restricted Subsidiaries or existing on such fixed or capital assets at the time of purchase or lease, or any renewal, extension or refunding (in an amount not in excess of the then outstanding indebtedness) of the same, or to secure indebtedness (in an amount not in excess the lesser of the cost or fair market value of the fixed or capital assets hereinafter referred to) incurred by ITEL or any of its Restricted Subsidiaries for the purpose of reimbursing itself for the cost of acquisition and/or the cost of improvement of fixed or capital assets owned or leased by ITEL or any of its Restricted Subsidiaries, provided that each such lease, security agreement, mortgage, conditional sales or title retention contract shall at all times be confined solely to the fixed or capital assets so purchased, leased or refinanced;

(g) liens on the property or assets of any Restricted Subsidiary securing indebtedness of such Restricted Subsidiary to ITEL.

(h) subject to each and every other Section of this Article Seven, liens securing Indebtedness permitted by Sections 7.01(c), (d) and (e), excluding Subordinated Debt permitted by Section 7.01(e); and

(i) liens incidental to the conduct of the respective businesses of ITEL and its Restricted Subsidiaries or the ownership of their respective properties and assets which were not incurred to secure any Indebtedness and which do not in the aggregate materially detract from the value of such properties and assets or materially impair the use thereof in the operation of the respective businesses of ITEL and its Restricted Subsidiaries.

In addition, neither ITEL nor any Restricted Subsidiary shall at any time hereafter incur, create or assume any mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever on any property or assets now owned or hereafter acquired by it securing any of its obligations which were theretofore unsecured (unless such obligations were theretofore subject to an agreement under which the obligee had the option to have the same so secured) unless ITEL equally and ratably secures the payment of all rentals and indebtedness payable by it under this Agreement and the Trust Certificates, provided that, such securing of payment of rentals and indebtedness shall not be deemed to cure any default or Event of Default which would otherwise exist hereunder.

SECTION 7.03. *Capital Distributions; Excess Restricted Investments.* Declare or pay any dividend on the capital stock of ITEL or any Restricted Subsidiary (other than dividends payable (i) solely in shares of the common stock of ITEL or such Restricted Subsidiary, (ii) by a Restricted Subsidiary to ITEL or (iii) on outstanding preferred stock of ITEL shown on the Consolidated Balance Sheet), or redeem, retire, purchase or otherwise acquire, directly or indirectly, for value any share of the capital stock of ITEL or any Restricted Subsidiary, or make optional prepayments of Subordinated Debt by way of sinking fund or otherwise, or make any Excess Restricted Investment (all of the foregoing being hereinafter called Restricted Payments), except that, so long as no Event of Default or event which with the giving of notice or the passage of time or both would constitute an Event of Default shall have occurred and be continuing, ITEL or any Restricted Subsidiary may make Restricted Payments if the sum of all Restricted Payments made after January 1, 1977, all dividends declared or paid after January 1, 1977 on preferred stock of ITEL shown on the Consolidated Balance Sheet and of the Restricted Payments then proposed to be made shall not exceed the sum (hereinafter called the Maximum Restricted Payment) of (i) 75% of Consolidated Net Income for the period from January 1, 1977, through the fiscal quarter next preceding the date of the declaration or payment of the Restricted Payment or Payments proposed to be made (taken as one accounting period) (or minus 100% of Consolidated Net Income if there was a loss for such period), (ii) net cash proceeds realized by ITEL and its Restricted Subsidiaries after January 1, 1977, from the sale of capital stock of ITEL and/or its Restricted Subsidiaries to Persons other than ITEL or its Restricted Subsidiaries and (iii) \$5,000,000.

Nothing contained in the foregoing shall prevent retirement of any shares of the capital stock of ITEL by exchange for, or out of the proceeds of the substantially concurrent sale of, other shares of its capital stock; *provided, however*, that any such retire-

ment and any such proceeds shall not be included in any computation thereafter made of the Maximum Restricted Payment.

For purposes of calculating at any time the aggregate amount of Restricted Payments, the value of any Restricted Investment in an Unrestricted Subsidiary shall be deemed to be the net book value of such investment at the time such investment was first made reduced by the amount of any repayment of such investment made by such Unrestricted Subsidiary.

SECTION 7.04. *Consolidations and Mergers; Sale of Assets.* Consolidate with or merge into any other corporation, or sell, lease, transfer or otherwise dispose of all or any substantial portion of its assets in a single transaction or in a series of related transactions to any Person, except as follows:

(i) ITEL may merge or consolidate with another corporation if ITEL is the survivor of such merger or consolidation and if, upon the consummation of such merger or consolidation, and after giving effect thereto, (A) no default under any of the provisions of this Agreement or Event of Default would exist and (B) ITEL could, under the provisions of this Article Seven, incur at least \$1.00 of additional Senior Funded Debt;

(ii) any Restricted Subsidiary may be merged into any other Restricted Subsidiary or ITEL (provided that ITEL shall be the surviving corporation);

(iii) any Restricted Subsidiary may merge or consolidate with an Unrestricted Subsidiary if the Restricted Subsidiary is the survivor of the merger or consolidation and if, upon the consummation of such merger or consolidation, and after giving effect thereto, and assuming that any indebtedness of such Unrestricted Subsidiary assumed (whether expressly or by operation of law) by the Restricted Subsidiary into which such Unrestricted Subsidiary shall be merged or consolidated, shall for all purposes hereof be deemed to be Indebtedness of such Restricted Subsidiary incurred on the effective date of such merger or consolidation, (A) no default under any of the provisions of this Agreement or Event of Default would exist and (B) ITEL could, under the provisions of this Article Seven, incur at least \$1.00 of additional Senior Funded Debt;

(iv) any Restricted Subsidiary may sell, lease, transfer or otherwise dispose of any of its assets to ITEL or any other Restricted Subsidiary; and

(v) ITEL and any Restricted Subsidiary may sell, lease, transfer or otherwise dispose of any of its assets if (A) the sale is not made to an Affiliate of the Person making such disposition and, in the opinion of ITEL, is for fair value and is in the best interests of ITEL, (B) the sum of (1) the net book value at the date of disposition (hereinafter called in this Section the Date of Disposition) of such assets sold, leased, transferred or otherwise disposed of, (2) the net book value of any other assets (other than securities of Restricted Subsidiaries) of ITEL or any Restricted Subsidiaries sold, leased, transferred or otherwise disposed of during the twelve consecutive month period next preceding the Date of Disposition and (3) the net book value of any securities of Restricted Subsidiaries sold, transferred or otherwise disposed of pursuant to Section 7.09 (except for the purpose of qualifying directors or to ITEL or any other Restricted Subsidiary) during

the twelve consecutive month period next preceding the Date of Disposition, does not exceed 15% of Consolidated Stockholders' Equity at the end of the fiscal quarter next preceding the Date of Disposition, and (C) the sum of (1) the Net Income during the four consecutive fiscal quarters next preceding the Date of Disposition attributable to the assets so sold, leased, transferred or otherwise disposed of, (2) the Net Income during the four consecutive fiscal quarters next preceding the date of disposition thereof attributable to any other assets (other than securities of Restricted Subsidiaries) of ITEL or any Restricted Subsidiary sold, leased, transferred or otherwise disposed of during the twelve consecutive month period next preceding the Date of Disposition and (3) the Net Income during the four consecutive fiscal quarters next preceding the date of disposition thereof attributable to any securities of Restricted Subsidiaries sold, transferred or otherwise disposed of pursuant to Section 7.09 (except for the purpose of qualifying directors or to ITEL or any other Restricted Subsidiary) during the twelve consecutive month period next preceding the Date of Disposition, does not exceed 15% of Consolidated Net Income during the four consecutive fiscal quarters next preceding the Date of Disposition, and (D) at the time of and after giving effect thereto, no default under any of the provisions of this Agreement or Event Default would exist.

Any opinion of ITEL referred to in clause (v)(A) above shall be evidenced by a resolution of the Board of Directors of ITEL (or a duly constituted committee thereof) if the fair market value of the assets being sold, leased, transferred or otherwise disposed of equals or exceeds \$5,000,000 or, when taken together with other assets so sold, leased, transferred or otherwise disposed of during the four fiscal quarters next preceding the Date of Disposition, equals or exceeds \$15,000,000.

SECTION 7.05. *Stockholders' Equity.* In the case of ITEL, permit the Consolidated Stockholders' Equity of ITEL at any time to be less than \$165,000,000.

SECTION 7.06. *Cash Flow.* Permit Cash Flow for the 12 month period ending on the last day of any fiscal year to be less than 100% of the aggregate of all payments of principal of Consolidated Funded Debt which are scheduled to be made during the next succeeding twelve consecutive month period; *provided, however*, that any final payment of Consolidated Funded Debt which exceeds the amount of immediately prior periodic installments of such Consolidated Funded Debt shall be excluded, to the extent of such excess, if there is a firm commitment for refunding such excess Consolidated Funded Debt and such refunding is not prohibited by any other provision of this Article Seven.

SECTION 7.07. *Interest Coverage.* Permit at the end of any quarterly fiscal period of ITEL, Consolidated Earnings Available for Interest Coverage for such fiscal period then ending and the three quarterly fiscal periods next preceding such fiscal period then ending to be less than 150% of Consolidated Interest Expense for such 12 month period.

SECTION 7.08. *Commercial Paper.* Issue or sell any commercial paper or other similar short-term Indebtedness contemplated to be retired through the future issuance and sale of other short-term Indebtedness unless, after giving effect thereto, the aggregate principal amount thereof then outstanding shall not exceed the aggregate amount of bank credit lines then unused and available to ITEL and its Restricted Subsidiaries under then outstanding credit or loan agreements.

SECTION 7.09. *Disposal of Securities of Restricted Subsidiaries.* Sell, transfer or otherwise dispose of any equity or debt security of a Restricted Subsidiary, owned by ITEL or any other Restricted Subsidiary, to any Person (except for the purpose of qualifying directors or except to ITEL or any other Restricted Subsidiary) unless (i) such disposition is of all such securities owned, directly or indirectly, by ITEL and its Subsidiaries immediately prior to such disposition, (ii) the corporation whose securities have been so disposed of does not own, directly or indirectly, after such disposition any equity or debt security of ITEL or any other Restricted Subsidiary, (iii) the sale, transfer or other disposition of such securities is not made to an Affiliate of the corporation making such disposition and, in the opinion of the Board of Directors (or a duly constituted committee thereof) of ITEL, is for fair value and is in the best interests of ITEL, (iv) the sum of (A) the net book value at the date of disposition (hereinafter in this Section called the Date of Disposition) of such securities sold, transferred or otherwise disposed of and (B) the net book value of any other equity or debt securities of any Restricted Subsidiary theretofore owned by ITEL or any Restricted Subsidiary and of any other assets of ITEL or any Restricted Subsidiary sold, leased, transferred or otherwise disposed of during the twelve consecutive month period next preceding the Date of Disposition, does not exceed 15% of Consolidated Stockholders' Equity at the end of the fiscal quarter next preceding the Date of Disposition, (v) the sum of (A) the Net Income during the four consecutive fiscal quarters next preceding the Date of Disposition attributable to the Restricted Subsidiary the securities of which were sold, transferred or otherwise disposed of and (B) the Net Income during the four consecutive fiscal quarters next preceding the date of disposition thereof attributable to any other Restricted Subsidiary the securities of which were sold, transferred or otherwise disposed of and to any other assets of ITEL or any Restricted Subsidiary sold, leased, transferred or otherwise disposed of during the four consecutive fiscal quarters next preceding the Date of Disposition, does not exceed 15% of Consolidated Net Income during the four consecutive fiscal quarters next preceding the Date of Disposition, (vi) at the time of and after giving effect thereto, no default under any of the provisions of this Agreement or Event of Default would exist and (vii) immediately after giving effect thereto, ITEL would then be able to incur at least \$1.00 of additional Senior Funded Debt without thereby being in default under the provisions of Section 7.01.

SECTION 7.10. *Sale and Discount of Receivables.* Sell with recourse, or discount or otherwise sell for less than the face value thereof, any of its notes, accounts receivable or other rights to receive payments, except sale and discounting in the ordinary course of business of accounts receivable arising from leases and conditional sales entered into or made in the ordinary course of business.

SECTION 7.11. *Lease Rentals.* Enter into or permit to remain in effect, agreements by ITEL and its Restricted Subsidiaries to rent or lease (as lessee) any real or personal property (other than offices and data processing equipment used for the conduct of ITEL's and its Restricted Subsidiaries' businesses and leases of equipment acquired for use in the operations of ITEL's transportation services group) having an initial term (including options to renew or extend any term, whether or not exercised) of more than three years providing in the aggregate for minimum, annual, non-cancelable payments on a consolidated basis to lessors (or any assignee) in excess of 5% of Consolidated Net Tangible Assets at the end of the immediately preceding fiscal quarter of ITEL.

SECTION 7.12. *Sale and Leaseback.* Except as otherwise permitted in Section 7.02(f), enter into any agreement with any Person providing for the leasing by ITEL or any Restricted Subsidiary of real or personal property which has been or is to be sold or transferred by ITEL or any Restricted Subsidiary, directly or indirectly, to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of ITEL or any Restricted Subsidiary.

SECTION 7.13. *Transactions with Affiliates.* Directly or indirectly purchase, acquire or lease any property from or sell, transfer or lease any property to, or otherwise enter into any other transaction in the ordinary course of business or otherwise with, any Affiliate of ITEL or any Restricted Subsidiary on terms and conditions less favorable to it than the terms or conditions that would obtain in a comparable arm's-length transaction with a Person not such an Affiliate; *provided, however*, that this Section 7.13 shall not apply to (i) transactions involving ITEL and its Restricted Subsidiaries exclusively, (ii) employee stock option, stock purchase or similar plans, contracts or other arrangements approved by the shareholders of ITEL (in accordance with such voting requirements as may be applicable) and (iii) arrangements between ITEL and Restricted Subsidiaries, on the one hand, and Unrestricted Subsidiaries, on the other hand, for providing ordinary and usual corporate services to Unrestricted Subsidiaries.

SECTION 7.14. *Restricted and Unrestricted Subsidiaries.* Designate any

(a) Restricted Subsidiary as an Unrestricted Subsidiary or acquire or create any Subsidiary (which is not, subject to subparagraph (b) below, simultaneously designated a Restricted Subsidiary) unless, immediately after giving effect thereto, (i) such Restricted Subsidiary or Subsidiary does not own any capital stock, property or Debt of a Restricted Subsidiary or ITEL, (ii) such Restricted Subsidiary or Subsidiary is not then the mortgagee under any mortgage covering property owned by ITEL or any Restricted Subsidiary, (iii) in the case of such a designation, the book value of such Restricted Subsidiary immediately prior to such designation constituted less than 15% of Consolidated Stockholders' Equity (adjusted to give effect to any other contemporaneous designation of any other Restricted Subsidiary or Subsidiaries as an Unrestricted Subsidiary or Subsidiaries), (iv) in the case of such a designation, such Restricted Subsidiary contributed less than 15% of Consolidated Net Income in each of the three fiscal years immediately prior to such designation (as adjusted to reflect the exclusion from Consolidated Net Income of the Net Income of any other Restricted Subsidiary or Subsidiaries designated as an Unrestricted Subsidiary or Subsidiaries during the period commencing with the beginning of such period of three fiscal years and ending at the close of business on the date of such designation) and (v) no default under any of the provisions of this Agreement or Event of Default would exist; or

(b) Subsidiary formed or acquired or any Unrestricted Subsidiary as a Restricted Subsidiary unless, immediately after giving effect thereto, (i) ITEL would then be able to incur at least \$1.00 of additional Senior Funded Debt without thereby being in default under the provisions of Section 7.01, (ii) no default under any of the provisions of this Agreement or Event of Default would exist and (iii) such Subsidiary or Unrestricted Subsidiary is not principally engaged in and does not propose principally to engage in a business unrelated to other businesses of ITEL at the time of such designation.

Any designation of a Subsidiary as an Unrestricted Subsidiary or as a Restricted Subsidiary shall be made by an Officer's Certificate filed with the Trustee at the Corporate Trust Office.

ARTICLE EIGHT

CONCERNING THE HOLDERS OF TRUST CERTIFICATES

SECTION 8.01. *Evidence of Action Taken by Holders of Trust Certificates.* Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate unpaid principal amount of the Trust Certificates may take action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Trust Certificates in person or by agent or proxy appointed in writing.

SECTION 8.02. *Proof of Execution of Instruments and of Holding of Trust Certificates.* Proof of the execution of any instrument by a holder of Trust Certificates or his agent or proxy and proof of the holding by any person of any of the Trust Certificates shall be sufficient if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction within the United States of America authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the person executing the same.

The ownership of Trust Certificates may be proved by the register of such Trust Certificates or by a certificate of the registrar thereof.

SECTION 8.03. *Trust Certificates Owned by ITEL.* In determining whether the holders of the requisite unpaid principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by ITEL or by any other obligor on the Trust Certificates or by an Affiliate of ITEL or any such other obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Trust Certificates which are actually known to the Trustee at its Corporate Trust Office to be so owned, shall be disregarded.

SECTION 8.04. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the percentage in aggregate unpaid principal amount of the Trust Certificates specified in this Agreement in connection with such action, any holder of a Trust Certificate the serial number of which is shown by the evidence to be included in the Trust Certificates the holders of which have consented to such action may, by filing written notice with the Trustee and upon proof of holding as provided in Section 8.02, revoke such action insofar as concerns such Trust Certificate. Except as aforesaid, any such action taken by the holder of any Trust Certificate shall be conclusive and binding

upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any action taken by the holders of the percentage in aggregate unpaid principal amount of the Trust Certificates specified in this Agreement in connection with such action shall be conclusive and binding upon ITEL, the Trustee and the holders of all the Trust Certificates, subject to the provisions of Section 5.08.

ARTICLE NINE

THE TRUSTEE

SECTION 9.01. *Acceptance of Trust.* The Trustee hereby accepts the trust imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 9.02. *Duties and Responsibilities of the Trustee.* In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. The Trustee shall not be deemed to have knowledge of any default or Event of Default under this Agreement prior to the time it shall have been given written notification thereof, at its Corporate Trust Office, by ITEL, or the holder of at least \$500,000 of the aggregate principal amount of the Trust Certificates then outstanding.

No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its wilful misconduct, except that:

(a) prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; *provided, however*, that the foregoing provisions of this subparagraph (b) shall not excuse the Trustee from liability for its action or inaction which was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith in accordance with the direction of the holders

of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guarantee or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(e) the Trustee may consult with counsel and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such Opinion of Counsel;

(f) the Trustee shall not be under any obligation to exercise any of its rights or powers vested in it by this Agreement, at the request, order or direction of any of the holders of the Trust Certificates, pursuant to the provisions of this Agreement, unless such holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby; and

(g) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement. None of the provisions contained in this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 9.03. *Application of Rentals.* The Trustee covenants and agrees to apply the rentals received by it under Section 4.04(B) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in Section 4.04(B).

The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment until fully indemnified by ITEL or by one or more holders of the Trust Certificates against all liability and expenses; and the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto or statement of new numbers or any assignments or any other statement or document that may be permitted or required to be filed, recorded, refilled or rerecorded in any jurisdiction to protect or perfect any of the security interests contemplated hereby. Nothing in this Section shall be deemed to create any duty or obligation or limit any of the rights of the Trustee, except as set forth in the first paragraph of this Section.

SECTION 9.04. *Funds May be Held by Trustee; Investments.* Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on noninterest bearing deposit with itself.

At any time and from time to time, if at the time no Event of Default shall have occurred and be continuing, the Trustee, on Request, shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Sections 4.06, 4.08 or 5.01(b) (hereinafter in this Section called Replacement Funds) in Investments, at such prices, including any premium and accrued interest, as are set forth in such Request, such Investments to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against acceptance of Trust Equipment or as provided in Section 5.01(b), sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investments, including accrued interest.

The Trustee shall, to the extent received, restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.04(B)(1), an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less the amount paid therefor, including accrued interest.

Until such time as, to the actual knowledge of the Trustee (obtained at its Corporate Trust Office), ITEL shall be in default under the terms hereof, ITEL shall be entitled to receive any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investments.

SECTION 9.05. *Trustee Not Liable for Delivery Delays or Defects in Equipment or Title.* The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of ITEL, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or in respect of the title thereto or the security afforded thereby or otherwise.

The Trustee may perform its powers and duties hereunder by or through such attorney and agents as it shall appoint, and shall be answerable only for its own negligent acts, negligent failures to act and wilful misconduct and not for the default or misconduct of any attorney or agent appointed by it with reasonable care. The Trustee shall not be responsible in any way for, and makes no representation with respect to, the recitals herein contained or for the execution or validity or enforceability of this Agreement or of the Trust Certificates (except for its own execution thereof) or for the guarantee by ITEL.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel fees and expenses, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by ITEL.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and may otherwise deal with ITEL with the same rights it would have if it were not Trustee.

Any moneys at any time held by the Trustee or any paying agent hereunder shall, until paid out or invested by the Trustee or any paying agent as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Trust Certificates.

SECTION 9.06. *Resignation and Removal; Appointment of Successor Trustee.* (a) The Trustee may resign and be discharged of the trust created by this Agreement by giving at least 30 days' written notice to ITEL. Such resignation shall take effect upon receipt by the Trustee of an instrument of acceptance executed by a successor trustee as provided in Section 9.07. If the instrument of acceptance by a successor trustee shall not have been delivered to the Trustee within 30 days after giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee.

(b) The Trustee may be removed at any time by an instrument in writing signed by the holders of a majority in aggregate unpaid principal amount of the Trust Certificates then outstanding, delivered to the Trustee and to ITEL.

(c) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting or, if at any time a vacancy shall occur in the office of the Trustee for any other cause, a successor trustee may be appointed by the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates by an instrument in writing delivered to ITEL and the Trustee. ITEL by an instrument in writing executed by order of its board of directors shall promptly appoint a trustee to fill such vacancy until a successor trustee shall be appointed by the holders of Trust Certificates as herein authorized. A successor trustee so appointed by ITEL shall immediately and without further act be superseded by a successor trustee appointed by the holders of Trust Certificates in the manner provided above and upon acceptance in accordance with Section 9.07. Every successor trustee appointed pursuant to this Section shall be a national bank or a bank or trust company incorporated under the laws of the United States of America or the State of New York, having its principal office in the City of New York and having a capital and surplus of not less than \$100,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

The Trustee shall be entitled to rely on the fact that any successor trustee appointed pursuant to this Section fulfills the requirements hereof.

(d) ITEL shall promptly give notice to the holders of all outstanding Trust Certificates of each resignation or removal of the then Trustee, or of each appointment by ITEL of a successor trustee pursuant to this Section, by mailing written notice of such event by first class mail, postage prepaid.

SECTION 9.07. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 9.06 shall execute, acknowledge and deliver to ITEL and to its predecessor trustee an instrument accepting such appointment hereunder and, subject to the provisions of Section 9.06(a), thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the Request of ITEL or written request of the

successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon written request of any such successor trustee, ITEL shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 9.05.

SECTION 9.08. *Merger or Consolidation of Trustee.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party shall be the successor of the Trustee hereunder, provided such corporation shall be qualified under the provisions of Section 9.06, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 9.09. *Return of Certain Moneys to ITEL.* Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal of or the interest on, any Trust Certificates which remain unclaimed for five years after the day when such moneys were due and payable shall then be repaid to ITEL upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to ITEL for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to ITEL as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee, in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to ITEL of the moneys held for the payment thereof.

ARTICLE TEN

MISCELLANEOUS

SECTION 10.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefits of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 10.02. *No Recourse.* No recourse under any obligation, covenant or agreement of this Agreement or of the guarantee endorsed on any Trust Certificate shall be had against any incorporator, stockholder, officer or director, as such, past, present or future, of ITEL, solely by reason of the fact that such person is an incorporator, stockholder, officer or director whether by virtue of any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such

incorporators, stockholders, officers or directors, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

SECTION 10.03. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66 $\frac{2}{3}$ % of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, no such amendment or waiver shall (1) reduce the amount of principal or extend the maturity date or reduce the rate or extend the time of payment of interest with respect to the Trust Certificates or change the amount or dates of payment of any Mandatory Sinking Fund Payment or reduce the redemption prices set forth in this Agreement, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust otherwise than as expressly permitted by the present terms of this Agreement, or (3) reduce the percent of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver; *provided, further, however,* that no such amendment or waiver shall modify the rights, duties, or immunities of the Trustee without the prior written consent of the Trustee. For purposes of this Section and Sections 5.01 and 5.04, to the extent that any Purchaser is obligated under the Purchase Agreement to purchase Trust Certificates on any Closing Date which has not occurred, Trust Certificates in such amount shall be deemed to be outstanding and such Purchaser to be the holder thereof.

SECTION 10.04. *Binding upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.05. *Notice.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of ITEL, ITEL Corporation, Rail Division, Two Embarcadero Center, San Francisco, California 94111, Attention of President, or such other address as may hereafter be furnished to the Trustee in writing by ITEL, (b) in the case of the Trustee, 111 Wall Street, New York, New York 10043, with a copy to ITEL, or such other address as may hereafter be furnished to ITEL in writing by the Trustee and (c) in the case of any holder of the Trust Certificates, at such address as is provided in Annex I to the Purchase Agreement or as otherwise furnished in writing to the Trustee. An affidavit by any person representing or acting on behalf of ITEL, the Trustee or the holders of the Trust Certificates as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.


SECTION 10.07. *Date Executed.* This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 10.08. *Governing Law.* The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, ITEL and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective seals, duly attested, to be hereunto affixed as of the day and year first above written in New York, New York.

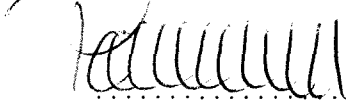
[SEAL]

Attest:

.....

Trust Officer

[CORPORATE SEAL]

Attest:

.....

AUTHORIZED OFFICER Assistant Secretary

CITIBANK, N.A., Trustee

By

Senior Trust Officer

ITEL CORPORATION

By

Authorized Officer

STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.:

On this 21st day of December, 1978, before me personally appeared G. H. Gregor, to me personally known, who, being by me duly sworn, says that he is Senior Trust Officer of CITIBANK, N.A., a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Alice M. Shaw
Notary Public

ALICE H. SHAW
Notary Public, State of New York
No. 24-4646218
Qualified in Kings County
Term Expires March 30, 1979

[NOTARIAL SEAL]

My Commission expires:

STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.:

On this 20th day of December, 1978, before me personally appeared Edward P. Schneider, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of ITEL CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

William P. [Signature]
Notary Public

[NOTARIAL SEAL]

My Commission expires:

SCHEDULE A

<u>Lessee</u>	<u>Units of Trust Equipment</u>	<u>Road Numbers</u>	<u>Trust Equipment Description</u>
Providence & Worcester Company	300	PW60001-60300 Both Inclusive	100-ton, 60' 10" Box cars with 15" end-of-car cushioning, AAR Mechanical Designation XM
East Camden & Highland Railroad Company	39	EACH 2162-2200 Both Inclusive	70-ton, 50' 6" Box cars with end-of-car cushioning and nailable steel floors, AAR Mechanical Designation XM
North Louisiana and Gulf Railroad Company	28	NLG 5523-5550 Both Inclusive	70-ton, 50' 6" Box cars with 10' sliding doors and nailable steel floors, AAR Mechanical Designation XM
The Texas Mexican Railway Company	150	TM 3150-3299 Both Inclusive	70-ton, 50' 6" Box cars with 10' sliding doors and end-of-car cushioning, AAR Mechanical Designation XM
Providence and Worcester Company	250	PW 105051-105100 PW 105201-105300 PW 105401-105500 Each Inclusive	70-ton, 89' 4" flat cars for trailer and container service, AAR Mechanical Designation FC
American Rail Heritage, Ltd. d/b/a Crab Orchard and Egyptian Railroad	50	COER 100000-100049 Both Inclusive	70-ton, 89' 4" Flat cars for trailer and container service, AAR Mechanical Designation FC
The Texas Mexican Railway Company	150	TM 400000-400149 Both Inclusive	70-ton, 89' 4" Flat cars for trailer and container service, AAR Mechanical Designation FC
Alabama State Docks Department, an Agency of the State of Alabama, d/b/a Terminal Railway, Alabama State Docks	50	TASD 790000-790049 Both Inclusive	70-ton, 89' 4" Flat cars for trailer and container service, AAR Mechanical Designation FC
Erie Western Railway Company	50	ERES 250000-250049 Both Inclusive	70-ton, 89' 4" Flat cars for trailer and container service, AAR Mechanical Designation FC

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[FORM OF TRUST CERTIFICATE]

NOTE: This Trust Certificate has not been registered under the Securities Act of 1933 and must be held indefinitely unless a subsequent disposition hereof is exempt from the registration requirements of said Act.

\$

No.

ITEL CORPORATION

10% Equipment Trust Certificates

1978 Series 3

Total Authorized Issue: \$300,000,000

CITIBANK, N.A.,
Trustee

CITIBANK, N.A., not in its individual capacity but solely as Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of November 1, 1978, between the Trustee and Itel Corporation, a Delaware corporation (hereinafter called ITEL), certifies that

or registered

assigns is entitled to an interest of

Dollars in ITEL Corporation, Equipment Trust, 1978 Series 3, due and payable on or before December 1, 1994, and to interest on the amount of unpaid principal from time to time due and owing pursuant to this Certificate from the date hereof until the principal amount represented by this Certificate shall have become due and payable on June 1 and December 1 in each year after the date hereof, at the rate of 10% per annum, with interest on any overdue principal, premium, if any, and interest, to the extent legally enforceable, at the rate of 11% per annum from the date any such amount became overdue. Interest on this Certificate shall be calculated on an actual elapsed day and a 365-day year basis.

The Trust Certificates will be redeemed in part, without premium upon at least 30 days' prior notice given as provided in the Agreement, through the operation of a mandatory sinking fund, providing for the payment by ITEL to the Trustee, on or before June 1 and December 1 in each year, commencing December 1, 1984, and continuing to and including June 1, 1994, of an amount sufficient to redeem an aggregate principal amount of the Trust Certificates equal to 4.75% of the aggregate principal amount of the Trust Certificates issued pursuant to Section 2.01 of the Agreement less any credit provided for in Section 4.08 of the Agreement (the "Mandatory Sinking Fund Payment"). In addition, ITEL has the option to increase any such sinking fund payment by an amount up to the amount of the Mandatory Sinking Fund Payment; *provided, however*, that no increased Sinking Fund payment may at any time be made by ITEL if, after giving

effect thereto, the aggregate of all such increased Sinking Fund payments plus the aggregate credits provided for in Section 4.08 of the Agreement resulting from redemptions without premium would exceed 15% of the aggregate principal amount of the Trust Certificates issued pursuant to Section 2.01 of the Agreement. The Trust Certificates are also subject to redemption without premium, under certain circumstances as provided in Sections 3.04, 4.06 and 4.08 of the Agreement, and are also redeemable, in whole or in part, at the option of ITEL under the conditions and at the optional redemption prices set forth in Section 2.02 of the Agreement.

Payments of principal, premium, if any, and interest shall be made by the Trustee to the registered holder hereof at the Corporate Trust Office of the Trustee at 111 Wall Street, New York, New York 10043 (hereinafter called the Corporate Trust Office), in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. Each of such payments shall be made only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an authorized issue of Trust Certificates, in an aggregate principal amount not exceeding \$300,000,000, issued or to be issued under the Agreement, under which certain railroad equipment leased to ITEL (or cash or obligations defined in the Agreement as "Investments" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the holders of the outstanding Trust Certificates issued thereunder. Reference is made to the Agreement (a copy of which is on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, including the rights, obligations and limitations of liabilities of the parties thereto, to all of which the registered holder hereof, by accepting this Certificate, assents.

The transfer of this Certificate is registrable in whole or in part by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender to the Trustee at the Corporate Trust Office of this Certificate accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Trust Certificate or Certificates for the then unpaid aggregate principal amount hereof will be issued to the transferee in exchange herefor and, if less than the then entire unpaid principal amount hereof is transferred, a balance piece therefor will be issued to the transferor. Prior to due presentment for registration of transfer, the Trustee and ITEL may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal, premium, if any, and interest and for all other purposes and shall not be affected by any notice to the contrary.

In case of the happening of an Event of Default (as defined in the Agreement) all installments of principal (and interest accrued thereon) represented by this Certificate may become or be declared due and payable in the manner and with the effect provided in the Agreement.

The provisions of this Certificate, and all the rights and obligations of the Trustee, ITEL and the holder hereof, shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by one of its Senior Trust Officers, by his signature or a facsimile thereof, and by the signature of one of its Authorized Officers, and its seal or a facsimile thereof to be hereunto affixed or hereon imprinted and to be attested by one of its Trust Officers by his signature or a facsimile thereof.

Dated as of

CITIBANK, N.A., as *Trustee*

By
Senior Trust Officer

By
Authorized Officer

[SEAL]

Attest:

.....
Trust Officer

GUARANTEE

Intel Corporation, a Delaware corporation, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment when due of the principal of said Certificate (including any Mandatory Sinking Fund Payments with respect thereto), and of any premium payable thereon, and of the interest thereon specified in said Certificate, with interest on any overdue principal (including any Mandatory Sinking Fund Payment), premium or interest, to the extent legally enforceable, at the rate of 11% per annum, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

INTEL CORPORATION

By

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

(Please insert Social Security or other identifying number of Assignee)

.....
.....

.....
the within Intel Corporation, 10% Equipment Trust Certificate, 1978 Series 3, and does hereby irrevocably constitute and appoint

.....
attorney to transfer the said Certificate on the books of the within named Trustee, with full power of substitution in the premises.

Dated

ITEL CORPORATION RAIL DIVISION

LEASE AGREEMENT

THIS LEASE AGREEMENT, made as of this day of, 197 ..., between ITEL CORPORATION, a Delaware corporation, acting through its Rail Division, Two Embarcadero Center, San Francisco, California 94111 ("IteI Rail"), as Lessor, and a corporation ("Lessee"), as Lessee.

1. Scope of Agreement

A. IteI Rail agrees to lease to Lessee, and Lessee agrees to lease from IteI Rail, freight cars of the type and description set forth in any equipment schedules (hereafter "Schedules") executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The scheduled items of equipment are hereinafter referred to as the "Car" or "Cars."

B. It is the intent of the parties to this Agreement that IteI Rail shall at all times be and remain the lessor of all Cars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

A. This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The term of lease with respect to all of the Cars described on each Schedule shall be for years (the "Initial Lease Term") commencing upon the date when all Cars on such Schedule have been delivered as set forth in Section 3A hereof.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, it shall automatically be extended for not more than five consecutive periods of twelve months each (the "Extended Lease Term") with respect to all of the Cars described on each Schedule, provided, however, that IteI Rail or Lessee may terminate this Agreement on or after the Initial Lease Term as to all, but not fewer than all, of the Cars on any such Schedule by written notice delivered to the other not less than twelve months prior to the end of the Initial Lease Term or any Extended Lease Term.

3. Supply Provisions

A. IteI Rail will inspect each of the Cars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to IteI Rail that a sample Car (one for each different type of Car on each Schedule) made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment agreed to by Lessee. Upon such approval by Lessee and IteI Rail's determination that the Car conforms to the specifications ordered by IteI Rail and to all applicable governmental regulatory specifications, and provided this Agreement has not been terminated, IteI Rail will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each Car shall be deemed delivered to Lessee upon acceptance by IteI Rail. The Cars shall be moved to Lessee's railroad line at no cost to Lessee as soon after acceptance of delivery by IteI Rail as is consistent with mutual convenience and economy. Due to the nature of railroad operations in the United States, IteI Rail can neither control nor determine when the Cars

leased hereunder will actually be available to Lessee for its use on its railroad tracks. Notwithstanding that Lessee may not have immediate physical possession of the Cars leased hereunder, Lessee agrees to pay to Itel Rail the rent set forth in this Agreement. To move the Cars to Lessee's railroad line and insure optimal use of the Cars after the first loading of freight for each Car on the railroad line of Lessee (the "Initial Loading"), Itel Rail agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Itel Rail, to issue movement orders with respect to such Cars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. Additional Cars shall be leased from Itel Rail by Lessee only upon the mutual agreement of the parties hereto. Upon such agreement, such additional Cars shall be identified in Schedules to this Agreement and shall benefit from and be subject to this Agreement upon execution of the Schedules by Itel Rail and Lessee. Notwithstanding the execution of any Schedules, including Schedules for additional Cars, the delivery of any Car to Lessee shall be subject to manufacturers' delivery schedules, financing satisfactory to Itel Rail and the mutual acknowledgment of the parties that the addition of such Cars is not likely to reduce Utilization (as defined in Section 6) of all Cars on lease to Lessee to less than per cent in any calendar quarter. If, due to the factors listed in the preceding sentence, fewer than all of the Cars listed on a Schedule shall be delivered to Lessee, the lease term shall be deemed to have commenced on the date the final Car of the most recent group of Cars was delivered to Lessee.

4. Railroad Markings and Record Keeping

A. Itel Rail and Lessee agree that on or before delivery of any Cars to Lessee, said Cars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. Such name and/or insignia shall comply with all applicable regulations.

B. At no cost to Lessee, Itel Rail shall during the term of this Agreement prepare for Lessee's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include but are not limited to the following: (i) appropriate AAR documents including an application for relief from AAR Car Service Rules 1 and 2; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the ICC and/or other regulatory agencies.

C. Each Car leased hereunder shall be registered at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. Itel Rail shall, on behalf of Lessee, perform all record keeping functions related to the use of the Cars by Lessee and other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation. Correspondence from railroads using such Cars shall be addressed to Lessee at such address as Itel Rail shall select.

D. All record keeping performed by Itel Rail hereunder and all record of payments, charges and correspondence related to the Cars shall be separately recorded and maintained by Itel Rail in a form suitable for reasonable inspection by Lessee from time to time during regular Itel Rail business hours. Lessee shall supply Itel Rail with such reports, including daily telephone reports of the number of Cars on Lessee's tracks, regarding the use of the Cars by Lessee on its railroad line as Itel Rail may reasonably request.

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, Itel Rail will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during its lease term and any extension thereof, including but not limited to repairs, maintenance and servicing, unless the same was occasioned by the fault of Lessee. Lessee shall inspect all Cars interchanged to it to insure that such Cars are in good working order and condition and shall be liable to Itel Rail for any repairs required for damage not noted at the time of interchange.

B. Except as provided above, Itel Rail shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required. Upon request of Itel Rail, Lessee shall perform any necessary maintenance and repairs to Cars on Lessee's railroad tracks as may be reasonably requested by Itel Rail. Itel Rail shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the lease term of such Cars. Lessee may make running repairs to facilitate continued immediate use of a Car, but shall not otherwise make any repairs, alterations, improvements or additions to the Cars without Itel Rail's prior written consent. If Lessee makes an alteration, improvement or addition to any Car without Itel Rail's prior written consent, Lessee shall be liable to Itel Rail for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with Itel Rail.

C. Lessee will at all times while this Agreement is in effect be responsible for the Cars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules—Freight for freight cars not owned by Lessee on Lessee's railroad tracks. Lessee shall protect against the consequences of an event of loss involving the Cars while on Lessee's railroad tracks by obtaining insurance. Lessee shall also maintain bodily injury and property damage liability insurance. Lessee shall furnish Itel Rail concurrently with the execution hereof and thereafter at intervals of not more than 12 calendar months with certificates of insurance with respect to the insurance required as aforesaid signed by an independent insurance broker. All insurance shall be taken out in the name of Lessee and Itel Rail (or its assignee) as their interests may appear.

D. Itel Rail agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Car and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed during the lease term, except taxes on income imposed on Lessee and sales or use taxes imposed on the mileage charges and/or car hire revenues. Itel Rail shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee. Itel Rail and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars. Itel Rail shall review all applicable tax returns prior to filing.

6. Lease Rental

A. Lessee agrees to pay the following rent to Itel Rail for the use of the Cars:

(i) Itel Rail shall receive all payments made to Lessee by other railroad companies for their use or handling of the Cars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "Payments") if the Utilization (as defined below) of all of the Cars delivered to Lessee on an aggregate basis for each calendar year shall be equal to or less

than per cent. For the purpose of this Agreement, Utilization of the Cars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the Cars, commencing from the Initial Loading, and the denominator of which is the aggregate number of days in each calendar year that the Cars are on lease to Lessee, commencing from the Initial Loading. In addition, Itel Rail will receive, as additional rental, all monies earned by the Cars prior to their Initial Loading.

(ii) In the event Utilization exceeds per cent in any calendar year, Itel Rail shall receive an amount equal to the Itel Rail Base Rental plus an amount equal to one-half of the Payments earned in excess of the Itel Rail Base Rental. For the purpose hereof, Itel Rail Base Rental shall be an amount equal to the total Payments for the calendar year multiplied by a fraction, the numerator of which is per cent and the denominator of which is the Utilization for such calendar year. (The above determination of Itel Rail Base Rental insures that Lessee will, if Utilization is greater than per cent in any calendar year, receive one-half of all the Payments made by other railroads for use or handling of the Cars in excess of the Itel Rail Base Rental.)

(iii) If Itel Rail pays other railroads to move Cars in accordance with Section 3A, except for any expenses incurred to deliver such Cars to Lessee's railroad line, Lessee shall reimburse Itel Rail for such expenses only from and out of the monies received by Lessee pursuant to subsection 6A(ii).

(iv) The rental charges payable to Itel Rail by Lessee shall be paid from the Payments received by Lessee in the following order until Itel Rail receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges and (4) other.

(v) In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules—Freight and the appropriate amount due as a result thereof is received by Itel Rail, said damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, to enable Itel Rail to meet its financial commitments, Itel Rail shall, prior to making such calculations, retain the payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due Itel Rail, Itel Rail shall within three months after the end of each calendar quarter, calculate on a quarterly basis rather than a yearly basis the amount due it pursuant to this section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that following the yearly calculation, any amount paid to either party in excess of the amounts required by the yearly calculation shall be promptly refunded to the appropriate party.

C. If at any time during a calendar quarter, the number of days that the Cars have not earned car hire payments is such as to make it mathematically certain that the Utilization in such calendar quarter cannot be equal to or greater than per cent, Itel Rail may, at its option and upon not less than 10 days prior written notice to Lessee, terminate this Agreement as to such Cars as Itel Rail shall determine.

D. Itel Rail may, at its option, terminate this Agreement if the ICC shall, at any time, (1) issue an order reducing incentive car hire for Cars on an annual basis to three months or less without a corresponding increase in straight car hire or other monies available to both Itel Rail and Lessee at

least equal in amount to such reduction, (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or (3) require that Lessee spend funds not earned by the Cars in order for Lessee to continue to meet its obligations set forth in this section.

E. Subsequent to the Initial Loading, if any Car remains on Lessee's railroad tracks for more than seven consecutive days, Itel Rail may, at its option and upon not less than 24 hours prior written notice, terminate this Agreement as to such Car and withdraw such Car from Lessee's railroad tracks.

7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement and in the manner and to the extent Cars are customarily used in the railroad freight business, provided that Lessee retain on its railroad tracks no more Cars than are necessary to fulfill its immediate requirements to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Itel Rail in connection with the acquisition of Cars, i.e., upon notice to Lessee from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party and/or that the Cars be returned to such party. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Itel Rail or Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars or any interest therein or in this Agreement or Schedule thereto. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrances, security interest, or claim if the same shall arise at any time.

8. Default

A. The occurrence of any of the following events shall be an event of default:

(i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within ten days after the date any such payment is due.

(ii) The breach by Lessee of any other term, covenant, or condition of this Agreement, which is not cured within ten days thereafter.

(iii) Any act of insolvency by Lessee, or the filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee, unless

such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment.

(v) The subjection of any of Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

(vi) Any action by Lessee to discontinue rail service on all or a portion of its tracks or abandon any of its rail properties pursuant to applicable provisions of the Interstate Commerce Act or the laws of any state.

B. Upon the occurrence of any event of default, Itel Rail may, at its option, terminate this Agreement (which termination shall not release Lessee from any obligation to pay to Itel Rail any and all rent or other sums that may then be due or accrued to such date or from the obligation to perform any duty or discharge any other liability occurring prior thereto) and may

(i) Proceed by any lawful means to enforce performance by Lessee of such obligations or to recover damages for a breach thereof (and Lessee agrees to bear Itel Rail's costs and expenses, including reasonable attorneys' fees, in securing such enforcement), or

(ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon Itel Rail may enter upon any premises where the Cars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of Lessee.

9. Termination

Upon the termination of this Agreement as to any Cars, Lessee will surrender possession of such Cars to Itel Rail by delivering the same to Itel Rail. A Car shall be no longer subject to this Agreement upon the removal of Lessee's railroad markings from the Car and the placing thereon of such markings as may be designated by Itel Rail, either, at the option of Itel Rail, (1) by Lessee upon return of such Cars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Car at the time of or subsequent to termination of the lease term as to such Car. If such Cars are not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing, and transporting such Cars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by Itel Rail. If such Cars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense within five working days remove Lessee's railroad markings from the Cars and place thereon such markings as may be designated by Itel Rail. After the removal and replacement of markings, Lessee shall use its best efforts to load such Cars with freight and deliver such Cars to a connecting carrier for shipment. Lessee shall provide up to sixty (60) days free storage on its railroad tracks for Itel Rail or the subsequent lessee of any terminated Car. If any Car is terminated pursuant to subsections 6C or 6E or section 8 prior to the end of its lease term, Lessee shall be liable to Itel Rail for all costs and expenses incurred by Itel Rail to repaint the Cars and place thereon the markings and name or other insignia of Itel Rail's subsequent lessee.

10. Indemnities

Itel Rail will defend, indemnify and hold Lessee harmless from and against (1) any and all loss or damage of or to the Cars, usual wear and tear excepted, unless occurring while Lessee has physical possession of Cars and (2) any claim, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the Cars (other than loss or physical damage to the Cars as provided in (1) above) unless occurring through the fault of Lessee, including without limitation the construction, purchase and delivery of the Cars to Lessee's railroad line, ownership, leasing or return of the Cars, or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects, if any, are latent or are discoverable by Itel Rail or Lessee).

11. Representations, Warranties and Covenants

Lessee represents, warrants and covenants that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.

(ii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

(iii) There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee.

(iv) There is no fact which Lessee has not disclosed to Itel Rail in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligations under this Agreement.

(v) Lessee has not during the years 1964-1968 built, leased, purchased or nonequity leased new boxcars or rebuilt any boxcars.

12. Inspection

Itel Rail shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify Itel Rail of any accident connected with the malfunctioning or operation of the Cars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses, and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify Itel Rail in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. Lessee shall furnish to Itel Rail promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.

13. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not without the prior written consent of Itel Rail assign this Agreement or any of its rights hereunder or sublease the Cars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of this Agreement and in furtherance of any financing agreement entered into by Itel Rail in connection with the acquisition of the Cars in order to confirm the financing party's interest in and to the Cars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars except as a lessee only.

D. No failure or delay by Itel Rail shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Itel Rail nor shall any waiver or indulgence by Itel Rail or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. This Agreement shall be governed by and construed according to the laws of the State of California.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ITEL CORPORATION, RAIL DIVISION

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

STATE OF }
COUNTY OF }

On this day of, before me personally appeared,
to me personally known, who being by me duly sworn says that such person is of
....., that the foregoing Lease Agreement and Equip-
ment Schedule No. was signed on behalf of said corporation by authority of its board
of directors, and such person acknowledged that the execution of the foregoing instrument was the
free act and deed of said corporation.

Notary Public

STATE OF }
COUNTY OF }

On this day of, before me personally appeared,
to me personally known, who being by me duly sworn says that such person is of
IteL Corporation, Rail Division, that the foregoing Lease Agreement and Equipment Schedule No.
..... was signed on behalf of said corporation by authority of its board of directors, and such
person acknowledged that the execution of the foregoing instrument was the free act and deed of
such corporation.

Notary Public

EQUIPMENT SCHEDULE No.

ITEL Corporation, Rail Division hereby leases the following Cars to
 subject to the terms and conditions of that certain Lease Agreement dated as
 of, 197...

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions Inside Width	Height	Doors Width	No. of Cars

ITEL CORPORATION, RAIL DIVISION

BY: _____

TITLE:

DATE: _____

BY: _____

TITLE:

DATE: _____

SCHEDULE D

ASSIGNMENT OF LEASE AND AGREEMENT dated as of _____, 19____ (hereunder called this Assignment), by and between ITEL CORPORATION, a Delaware corporation (together with its successors and assigns, being hereinafter called ITEL), and CITIBANK, N.A., as Trustee, a national banking association, incorporated and existing under the laws of the United States of America (hereinafter called the Trustee).

WHEREAS ITEL has entered into an Equipment Trust Agreement dated as of November 1, 1978 (such Equipment Trust Agreement, together with any amendments or supplements thereto, being hereinafter called the Agreement);

WHEREAS ITEL and _____ (hereinafter called the Lessee) have entered into a lease of Equipment (as defined in the Agreement) dated as of _____, (such lease, together with any amendments or supplements thereto, being hereinafter called the Lease), providing for the leasing by ITEL to the Lessee of units of the Trust Equipment (as defined in the Agreement);

WHEREAS the Lease may also cover the leasing to the Lessee of other equipment not included as part of the Trust Equipment; and

WHEREAS in order to provide security for the obligations of ITEL under the Agreement and as an inducement to the investors for which the Trustee is acting to purchase Trust Certificates (as defined in the Agreement), ITEL agrees to assign for security purposes its rights in, to and under the Lease to the Trustee as and only to the extent that the Lease relates to the Trust Equipment;

Now, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. ITEL hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of ITEL's obligations under the Agreement, all of ITEL's right, title and interest, powers, privileges and other benefits under the Lease as and only to the extent that the Lease relates to the Trust Equipment set forth in Annex A hereto, including, without limitation, all rights to receive and collect all rentals, profits and other sums payable to or receivable by ITEL from the Lessee under or pursuant to the provisions of the Lease to the extent that the same are payable in respect of such Trust Equipment, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments); *provided, however*, that until an Event of Default under the Agreement, or any event which, with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that ITEL shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to apply all Payments to which ITEL is entitled to the payment of any and all of ITEL's obligations under the Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, ITEL hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee,

or in the name of ITEL or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which ITEL is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Whenever a Lease covers other equipment not included as part of the Trust Equipment and the amount of any payment due to ITEL under such Lease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to such Trust Equipment leased under such Lease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising such Trust Equipment leased under such Lease and the denominator of which shall be the aggregate number of units of equipment (including such units of Trust Equipment) at the time leased under such Lease.

2. This Assignment is executed only as security for the obligations of ITEL under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of ITEL under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of ITEL to the Lessee shall be and remain enforceable by the Lessee, its successor and assigns, against, and only against ITEL or persons other than the Trustee.

3. To protect the security afforded by this Assignment, ITEL agrees as follows:

(a) ITEL will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by ITEL.

(b) At ITEL's sole cost and expense, ITEL will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of ITEL under the Lease.

(c) Should ITEL fail to make any payment or to do any act which this Assignment requires ITEL to make or do, then the Trustee, but without obligation so to do, after first making written demand upon ITEL and affording ITEL a reasonable period of time within which to make such payment or do such act, but without releasing ITEL from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of ITEL contained in the Lease; and in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and ITEL will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of ITEL's obligations under the Agreement and this Assignment, all rights herein assigned to the Trustee shall

terminate, and all estate, right, title and interest of the Trustee in and to the Lease shall revert to ITEL.

5. ITEL will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure, the interests of the Trustee hereunder.

6. If an Event of Default shall occur and be continuing under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder. The Trustee will give written notice to ITEL and the Lessee of any such assignment.

7. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

ITEL CORPORATION

By

[CORPORATE SEAL]

Attest:

.....
Secretary

CITIBANK, N.A., as Trustee

By
Senior Trust Officer

[SEAL]

Attest:

.....
Trust Officer

On this day of , before me personally appeared
 , to me personally known, who, being by me duly sworn, says that he is
 of ITEL CORPORATION, that one of the seals affixed to
the foregoing instrument is the corporate seal of said corporation and that said instrument
was signed and sealed on behalf of said corporation by authority of its By-laws and he
acknowledged that the execution of the foregoing instrument was the free act and deed
of said corporation.

[NOTARIAL SEAL]

STATE OF NEW YORK, }
COUNTY OF NEW YORK } ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Senior Trust Officer of CITIBANK, N.A., a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

[NOTARIAL SEAL]

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ANNEX A

<u>No. of Units</u>	<u>Road Numbers</u>	<u>Description</u>	<u>AAR Mechanical Designation</u>
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